
A BILL FOR AN ACT

RELATING TO INTOXICATING LIQUOR.

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

1 SECTION 1. Section 281-78, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) At no time under any circumstances shall any licensee
4 or its employee:

5 (1) Sell, serve, or furnish any liquor to, or allow the
6 consumption of any liquor by:

7 (A) Any minor;

8 (B) Any person at the time under the influence of
9 liquor;

10 (C) Any person known to the licensee to be addicted
11 to the excessive use of intoxicating liquor; ~~[or]~~

12 (D) Any restricted person; or

13 ~~[(D)]~~ (E) Any person for consumption in any vehicle
14 that is licensed to travel on public highways;
15 provided that the consumption or sale of liquor to a
16 minor shall not be deemed to be a violation of this
17 subsection if, in making the sale or allowing the



1 consumption of any liquor by a minor, the licensee was
2 misled by the appearance of the minor and the
3 attending circumstances into honestly believing that
4 the minor was of legal age and the licensee acted in
5 good faith; provided further that it shall be
6 incumbent upon the licensee to prove that the licensee
7 so acted in good faith;

8 (2) Permit any liquor to be consumed on the premises of
9 the licensee or on any premises connected therewith,
10 whether there purchased or not, except as permitted by
11 the terms of its license;

12 (3) Permit any liquor to be sold or served by any person
13 eighteen to twenty years of age except in licensed
14 establishments where selling or serving the
15 intoxicating liquor is part of the minor's employment,
16 and where there is proper supervision of these minor
17 employees to ensure that the minors shall not consume
18 the intoxicating liquor;

19 (4) Permit any liquor to be sold or served by any person
20 below the age of eighteen years upon any licensed
21 premises, except in individually specified licensed



1 establishments found to be otherwise suitable by the
2 liquor commission in which an approved program of job
3 training and employment for dining room waiters and
4 waitresses is being conducted in cooperation with the
5 University of Hawaii, the state community college
6 system, or a federally sponsored personnel development
7 and training program, under arrangements that ensure
8 proper control and supervision of employees;

9 (5) Knowingly permit any person under the influence of
10 liquor or disorderly person to be or remain in or on
11 the licensed premises;

12 (6) Fail to timely prevent or suppress any violent,
13 quarrelsome, disorderly, lewd, immoral, or unlawful
14 conduct of any person on the premises; or

15 (7) Receive from a person, as payment or as a
16 consideration for liquor, any personal or household
17 goods, including clothing and food, or any implements
18 of trade. Any person violating this paragraph shall
19 be guilty of a misdemeanor and upon conviction shall
20 be punished as provided in section 281-102.



1 For purposes of this subsection, "restricted person" has
2 the same meaning as in section 712-1250.5."

3 SECTION 2. Section 281-101.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§281-101.5 Prohibitions involving minors[?] or restricted**
6 **persons; penalty.** (a) Any adult who provides or purchases
7 liquor for consumption or use by a person under twenty-one years
8 of age or any restricted person shall be guilty of the offense
9 under section 712-1250.5.

10 (b) No minor or restricted person shall consume or
11 purchase liquor and no minor or restricted person shall consume
12 or have liquor in the [~~minor's~~] minor or restricted person's
13 possession or custody in any public place, public gathering, or
14 public amusement, at any public beach or public park, or in any
15 motor vehicle on a public highway; provided that notwithstanding
16 any other law to the contrary, this subsection shall not apply
17 to:

18 (1) Possession or custody of liquor by a minor or
19 restricted person in the course of delivery, pursuant
20 to the direction of the [~~minor's~~] minor or restricted



1 person's employer lawfully engaged in business
2 necessitating the delivery;

3 (2) Possession, custody, or consumption of liquor by a
4 minor or restricted person in connection with the
5 [~~minor's~~] minor or restricted person's authorized
6 participation in religious ceremonies requiring [~~such~~]
7 the possession, custody, or consumption; or

8 (3) Any person between the ages of eighteen and twenty,
9 who is participating in a controlled purchase as part
10 of a law enforcement activity or a study authorized by
11 the department of health to determine the level of
12 incidence of liquor sales to minors.

13 (c) No minor or restricted person shall falsify any
14 identification or use any false identification or identification
15 of another person or of a fictitious person for the purpose of
16 buying or attempting to buy liquor or for the purpose of
17 obtaining employment to sell or serve liquor on licensed
18 premises.

19 (d) Any person under the age of eighteen who violates this
20 section shall be subject to the jurisdiction of the family
21 court. Any restricted person over the age of twenty-one who



1 violates this section or person [age] aged eighteen to
2 twenty-one who violates subsection (b) or (c) shall be guilty of
3 a petty misdemeanor. The court shall order that any person
4 under twenty-one years of age found to be in violation of this
5 section shall have, in addition to any other disposition or
6 sentencing provision permitted by law, the person's license to
7 operate a motor vehicle, or the person's ability to obtain a
8 license to operate a motor vehicle, suspended as follows:

9 (1) For licensed drivers, the driver's license shall be
10 suspended for not less than one hundred and eighty
11 days with exceptions to allow, at the discretion of
12 the sentencing court, driving to and from school,
13 school-sponsored activities, and employment;

14 (2) For persons with a provisional license, the
15 provisional license shall be suspended for not less
16 than one hundred and eighty days with exceptions to
17 allow, at the discretion of the sentencing court,
18 driving to and from school, school-sponsored
19 activities, and employment;

20 (3) For persons with an instruction permit, the
21 instruction permit shall be suspended for not less



1 than one hundred and eighty days with exceptions to
2 allow, at the discretion of the sentencing court,
3 driving to and from school, school-sponsored
4 activities, and employment; or

5 (4) For persons not licensed to drive, eligibility to
6 obtain a driver's license, provisional license, or
7 instruction permit shall be suspended until the age of
8 seventeen or for one hundred and eighty days, at the
9 discretion of the court; and

10 (5) Chapter 571 notwithstanding, in any case where a
11 person under the age of eighteen violates this
12 section, the family court judge may suspend the
13 driver's license, provisional license, or instruction
14 permit, or suspend the eligibility to obtain a
15 driver's license, provisional license, or instruction
16 permit in accordance with this section;

17 provided that the requirement to provide proof of financial
18 responsibility pursuant to section 287-20 shall not be based
19 upon a sentence imposed under paragraphs (1) and (2). In
20 addition, all persons whether or not licensed, found to be in
21 violation of this section shall be sentenced to seventy-five



1 hours of community service work, and an eight to twelve hour
2 program of alcohol education and counseling the costs of which
3 shall be borne by the offender or the offender's parent or
4 guardian.

5 (e) As used in this section [~~,"consume"~~]:

6 "Consume" or "consumption" includes the ingestion of
7 liquor.

8 "Restricted person" has the same meaning as in
9 section 712-1250.5."

10 SECTION 3. Section 286-103, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§286-103 Restrictions on driver's license; rules and**
13 **regulations.** (a) The examiner of drivers may adopt rules and
14 regulations restricting the use of a driver's license in any
15 manner the examiner of drivers may deem necessary for the safety
16 and welfare of the traveling public and may impose restrictions
17 with respect to the type of equipment or special mechanical
18 control devices required on the motor vehicle operated by the
19 licensee appropriate to the driving ability of the licensee.
20 Any restrictions shall be indicated on the license issued.



1 (b) The examiner of drivers shall adopt rules restricting
2 the use of a driver's license issued to a person who is
3 prohibited from purchasing or publicly consuming liquor within
4 the probation period commencing on the effective date of the
5 administrative revocation of the person's driver's license for a
6 violation of section 291E-61 or 291E-61.5. A license subject to
7 this subsection shall bear the notation "Liquor Restricted" and
8 shall not be accepted as a valid form of identification for the
9 purchase of liquor. A driver's license that bears the notation
10 "Liquor Restricted" shall expire no later than the date upon
11 which the probation period expires."

12 SECTION 4. Section 286-106, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§286-106 Expiration of licenses.** Every driver's license
15 issued under this part, except for a provisional license issued
16 under section 286-102.6 that shall expire on the date of the
17 provisional licensee's nineteenth birthday, whether an original
18 issuance or a renewal, shall expire on the first birthday of the
19 licensee occurring no less than eight years after the date of
20 the issuance of the license, unless sooner revoked or suspended;
21 provided that:



- 1 (1) The license shall expire on the first birthday of the
2 licensee occurring no less than four years after the
3 date of the issuance if, at the time, the licensee is:
4 (A) Twenty-four years of age or younger; or
5 (B) Seventy-two years of age or older but younger
6 than eighty years of age;
- 7 (2) The license shall expire on the first birthday of the
8 licensee occurring no less than two years after the
9 date of the issuance of the license if, at that time,
10 the licensee is eighty years of age or older; [~~and~~]
- 11 (3) If the licensee is a legal immigrant, the license
12 shall expire no later than the licensee's authorized
13 period of stay in the United States~~[]~~; and
- 14 (4) A license that bears the notation "Liquor Restricted"
15 that is issued to any person who is prohibited from
16 purchasing or publicly consuming liquor during a
17 probation period that commences on the effective date
18 of the revocation of the person's driver's license for
19 violation of section 291E-61 or section 291E-61.5
20 shall expire no later than the date of expiration of
21 the probation period.



1 include any designation other than the term "veteran". As used
2 in this subsection, "veteran" means any person who served in any
3 of the uniformed services of the United States and was
4 discharged under conditions other than dishonorable.

5 (c) The identification card shall not display the
6 cardholder's social security number.

7 (d) The identification card shall be designed to prevent
8 its reproduction or alteration without ready detection.

9 (e) The identification card for individuals under
10 twenty-one years of age shall have characteristics prescribed by
11 the examiner distinguishing it from that issued to [a] an
12 individual who is twenty-one years of age or older.

13 (f) An identification card issued to an individual who has
14 been convicted for a violation of section 291E-61 or 291E-61.5
15 and is prohibited from purchasing or publicly consuming liquor
16 shall bear the notation "Liquor Restricted". The identification
17 card shall be valid for a probation period, commencing on the
18 date of conviction and shall expire no later than the expiration
19 of the probation period. The issuance of an identification card
20 pursuant to this subsection shall invalidate any prior
21 identification card issued to the individual that does not bear



1 the notation required by this subsection, regardless of the date
2 of expiration listed on the identification card. An
3 identification card issued pursuant to this subsection shall not
4 be valid identification for the purchase of liquor."

5 SECTION 6. Section 287-20, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Whenever a driver's license has been suspended or
8 revoked:

9 (1) Pursuant to section 291E-65 or part III of chapter
10 291E, except as provided in section [~~291E-41(f);~~]
11 291E-41(g);

12 (2) Upon a conviction of any offense pursuant to law,
13 except where the conduct giving rise to the instant
14 offense is also a violation of part III of chapter
15 291E and a requirement to furnish and maintain proof
16 of financial responsibility has already been imposed
17 pursuant to that part; or

18 (3) In the case of minors, pursuant to part V of chapter
19 571,

20 the license shall not at any time thereafter be issued to the
21 person whose license has been suspended or revoked, nor shall



1 the person thereafter operate a motor vehicle, unless and until
2 the person has furnished and thereafter maintains proof of
3 financial responsibility; provided that this section shall not
4 apply to a license suspended or revoked pursuant to section
5 291E-61(b)(1) or 291E-64(b)(1), any conviction of a moving
6 violation, any administrative license suspension pursuant to
7 chapter 291A, or the first conviction within a five-year period
8 for driving without a valid motor vehicle insurance policy.

9 This subsection shall not apply to a suspension or
10 revocation of a provisional license under section 286-102.6(d)."

11 SECTION 7. Section 291E-34, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By amending subsection (e) to read:

14 "(e) The notice shall state that, if the respondent's
15 license and privilege to operate a vehicle is administratively
16 revoked after the review, a decision shall be mailed to the
17 respondent, or to the parent or guardian of the respondent if
18 the respondent is under the age of eighteen, that shall contain,
19 at a minimum, the following information:

20 (1) The reasons why the respondent's license and privilege
21 to operate a vehicle is administratively revoked;



- 1 (2) That the respondent may request the director, within
2 six days of the date the decision is mailed, to
3 schedule an administrative hearing to review the
4 administrative revocation;
- 5 (3) That, if the respondent's request for an
6 administrative hearing is received by the director
7 within six days of the date the decision was mailed,
8 the hearing shall be scheduled to commence:
- 9 (A) No later than twenty-five days after the date of
10 the issuance of the notice of administrative
11 revocation in the case of an [~~alcohol-related~~]
12 alcohol-related offense; and
- 13 (B) No later than thirty-nine days after the date of
14 the issuance of the notice of administrative
15 revocation in the case of a [~~drug-related~~]
16 drug-related offense;
- 17 (4) The procedure to request an administrative hearing;
- 18 (5) That failure to request an administrative hearing
19 within the time provided shall cause the
20 administrative revocation to take effect for the



1 period and under the conditions established by the
2 director in the decision;

3 (6) That the respondent may regain the right to a hearing
4 by requesting the director, within sixty days after
5 the issuance of the notice of administrative
6 revocation, to schedule a hearing;

7 (7) That the director shall schedule the hearing to
8 commence no later than thirty days after a request
9 under paragraph (6) is received, but that, except as
10 provided in section 291E-38(j), the temporary permit
11 shall not be extended if the respondent fails to
12 request an administrative hearing within the initial
13 six-day period provided for that purpose;

14 (8) That failure to attend the hearing shall cause the
15 administrative revocation to take effect for the
16 period and under the conditions indicated;

17 (9) The duration of the administrative revocation and
18 other conditions that may be imposed, including[+]
19 referral to the driver's education program for an
20 assessment of the respondent's substance abuse or
21 dependence and the need for treatment; [~~and~~]



1 (10) That the respondent shall obtain an ignition interlock
2 permit in order to operate a vehicle during the
3 revocation period if the respondent had a valid
4 license at the time of the arrest[-]; and

5 (11) That the respondent shall be prohibited from
6 purchasing or publicly consuming liquor for a
7 probation period commencing on the date that the
8 administrative revocation of the respondent's license
9 becomes effective."

10 2. By amending subsection (h) to read:

11 "(h) The notice shall state that, if the administrative
12 revocation is sustained at the hearing, a written decision shall
13 be mailed to the respondent, or to the parent or guardian of the
14 respondent if the respondent is under the age of eighteen, that
15 shall contain, at a minimum, the following information:

- 16 (1) The effective date of the administrative revocation;
17 (2) The duration of the administrative revocation;
18 (3) Other conditions that may be imposed by law, including
19 the use of an ignition interlock device[+] and a
20 probation period prohibiting the purchase or public
21 consumption of liquor; and



1 (4) The right to obtain judicial review."

2 SECTION 8. Section 291E-41, Hawaii Revised Statutes, is
3 amended to read as follows:

4 **"§291E-41 Effective date, conditions, and period of**
5 **administrative revocation; criteria.** (a) Unless an
6 administrative revocation is reversed or the temporary permit is
7 extended by the director, administrative revocation shall become
8 effective on the day specified in the notice of administrative
9 revocation. Except as provided in section 291E-44.5, no license
10 to operate a vehicle shall be restored under any circumstances
11 during the administrative revocation period. Upon completion of
12 the administrative revocation period, the respondent may reapply
13 and be reissued a license pursuant to section 291E-45.

14 (b) Except as provided in paragraphs (4)(A)(ii) and (5)
15 and in section 291E-44.5, the respondent shall keep an ignition
16 interlock device installed and operating in all vehicles
17 operated by the respondent during the revocation period. Except
18 as provided in section 291E-5, installation and maintenance of
19 the ignition interlock device shall be at the respondent's
20 expense. The periods of administrative revocation, with respect



1 to a license to operate a vehicle, that shall be imposed under
2 this part are as follows:

3 (1) A [~~one-year~~] one-year revocation of license to operate
4 a vehicle, if the respondent's record shows no prior
5 alcohol enforcement contact or drug enforcement
6 contact during the ten years preceding the date the
7 notice of administrative revocation was issued;

8 (2) A two-year revocation of license to operate a vehicle,
9 if the respondent's record shows one prior alcohol
10 enforcement contact or drug enforcement contact during
11 the ten years preceding the date the notice of
12 administrative revocation was issued;

13 (3) A four-year revocation of license to operate a
14 vehicle, if the respondent's record shows two or more
15 prior alcohol enforcement contacts or drug enforcement
16 contacts during the ten years preceding the date the
17 notice of administrative revocation was issued;

18 (4) For a respondent who is a highly intoxicated driver:
19 (A) If the respondent's record shows no prior alcohol
20 enforcement contact or drug enforcement contact



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



- 1 (C) If the respondent's record shows two or more
2 prior alcohol enforcement contacts or drug
3 enforcement contacts during the ten years
4 preceding the date the notice of administrative
5 revocation was issued, a six-year revocation of
6 license to operate a vehicle, with mandatory
7 installation of an ignition interlock device in
8 all vehicles operated by the respondent during
9 the revocation period;
- 10 (5) For respondents under the age of eighteen years who
11 were arrested for a violation of section 291E-61 or
12 291E-61.5, revocation of license and privilege to
13 operate a vehicle for the appropriate revocation
14 period provided in paragraphs (1) to (3) or in
15 subsection (c); provided that the respondent shall be
16 prohibited from driving during the period preceding
17 the respondent's eighteenth birthday and shall
18 thereafter be subject to the ignition interlock
19 requirement of this subsection for the balance of the
20 revocation period; or



1 (6) For respondents, other than those excepted pursuant to
2 section 291E-44.5(c), who do not install an ignition
3 interlock device in all vehicles operated by the
4 respondent during the revocation period, revocation of
5 license to operate a vehicle for the period of
6 revocation provided in paragraphs (1) to (4) (A) or in
7 subsection (c); provided that:

8 (A) The respondent shall be absolutely prohibited
9 from driving during the revocation period and
10 subject to the penalties provided by section
11 291E-62 if the respondent drives during the
12 revocation period; and

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

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



1 (c) If a respondent has refused to be tested after being
2 informed:

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

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

9 the revocation imposed under subsection (b) (1), (2), or (3)
10 shall be for a period of two years, four years, or eight years,
11 respectively.

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



1 (e) Whenever a license and privilege to operate a vehicle
2 is administratively revoked under this part, the respondent
3 shall be prohibited from purchasing or publicly consuming liquor
4 for a probation period commencing on the effective date of the
5 administrative revocation. Any driver's license, identification
6 card, ignition interlock permit, or special permit that is
7 issued to the respondent by a court pursuant to section 291E-61
8 or the director pursuant to section 291E-44.5 during the
9 probation period and that authorizes the respondent to operate a
10 vehicle owned by the respondent's employer shall bear the
11 notation "Liquor Restricted" and shall not be accepted as a
12 valid form of identification for the purchase of liquor.

13 [~~e~~] (f) Alcohol and drug enforcement contacts that
14 occurred prior to January 1, 2002, shall be counted in
15 determining the administrative revocation period.

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

19 SECTION 9. Section 291E-44.5, Hawaii Revised Statutes, is
20 amended as follows:

21 1. By amending subsection (a) to read:



1 "(a) Except as provided in subsection (b), upon proof that
2 the respondent has installed an ignition interlock device in any
3 vehicle the respondent operates and obtained motor vehicle
4 insurance or self-insurance that complies with the requirements
5 of section 431:10C-104 or 431:10C-105, the director shall issue
6 an ignition interlock permit that will allow the respondent to
7 drive a vehicle equipped with an ignition interlock device
8 during the revocation period. An ignition interlock permit
9 shall bear the notation "Liquor Restricted" and shall not be
10 accepted as a valid form of identification for the purchase of
11 liquor."

12 2. By amending subsection (c) to read:

13 "(c) Except as provided in subsection (b), the director
14 may issue a separate permit authorizing a respondent to operate
15 a vehicle owned by the respondent's employer during the period
16 of revocation without installation of an ignition interlock
17 device if the respondent is gainfully employed in a position
18 that requires driving and the respondent will be discharged if
19 prohibited from driving a vehicle not equipped with an ignition
20 interlock device. A separate permit issued pursuant to this
21 subsection shall bear the notation "Liquor Restricted" and shall



1 not be accepted as a valid form of identification for the
2 purchase of liquor."

3 3. By amending subsection (e) to read:

4 "(e) A permit issued pursuant to subsection (c) shall
5 include restrictions allowing the respondent to drive:

6 (1) Only during specified hours of employment, not to
7 exceed twelve hours per day, or the period of the
8 specified assigned hours of work, and only for
9 activities solely within the scope of the employment;

10 (2) Only the vehicles specified; and

11 (3) Only if the permit is kept in the respondent's
12 possession while operating the employer's vehicle.

13 [~~In addition, the~~] A permit issued pursuant to subsection (c)
14 shall bear the notation "Liquor Restricted" and shall not be
15 accepted as a valid form of identification for the purchase of
16 liquor. The director may impose any other [appropriate]
17 restrictions[-] that the director deems appropriate."

18 SECTION 10. Section 291E-45, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:



1 "(a) To be eligible for relicensing or renewing the
2 privilege to operate a vessel after a period of administrative
3 revocation has expired, the person shall:

4 (1) Submit proof to the director of compliance with all
5 conditions imposed by the director;

6 (2) Obtain a certified statement from the director
7 indicating eligibility for relicensing and for
8 renewing the privilege to operate a vessel;

9 (3) Present the certified statement to the appropriate
10 licensing official or to the department of land and
11 natural resources, as applicable; and

12 (4) Successfully complete each requirement, including
13 payment of all applicable fees, for:

14 (A) Obtaining a new license in this State, pursuant
15 to chapter 286; or

16 (B) Renewing the privilege to operate a vessel, as
17 may be provided in chapter 200 or rules adopted
18 by the department of land and natural resources
19 pursuant to section 200-24.

20 Any license issued or renewed pursuant to this subsection
21 during the probation period that commences on the date the



1 administrative revocation of the person's license became
2 effective shall bear the notation "Liquor Restricted" and shall
3 not be accepted as a valid form of identification for the
4 purchase of liquor. A license that bears the notation "Liquor
5 Restricted" shall expire on the date upon which the probation
6 period expires."

7 SECTION 11. Section 291E-61, Hawaii Revised Statutes, is
8 amended as follows:

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

10 "(b) A person committing the offense of operating a
11 vehicle under the influence of an intoxicant shall be sentenced
12 without possibility of probation or suspension of sentence as
13 follows:

14 (1) Except as provided in paragraph (4), for the first
15 offense, or any offense not preceded within a ten-year
16 period by a conviction for an offense under this
17 section or section 291E-4(a):

18 (A) A fourteen-hour minimum substance abuse
19 rehabilitation program, including education and
20 counseling, or other comparable programs deemed
21 appropriate by the court;



- 1 (B) Revocation of license to operate a vehicle for no
2 less than one year and no more than eighteen
3 months;
- 4 (C) Installation during the revocation period of an
5 ignition interlock device on all vehicles
6 operated by the person;
- 7 (D) Any one or more of the following:
- 8 (i) Seventy-two hours of community service work;
- 9 (ii) No less than forty-eight hours and no more
10 than five days of imprisonment; or
- 11 (iii) A fine of no less than \$250 and no more than
12 \$1,000;
- 13 (E) A surcharge of \$25 to be deposited into the
14 neurotrauma special fund; ~~and~~
- 15 (F) A surcharge, if the court so orders, ~~of~~ of up
16 to \$25 to be deposited into the trauma system
17 special fund; and
- 18 (G) A probation period, commencing on the effective
19 date of the license revocation period under
20 subparagraph (B) or paragraph (3) or (4), as
21 applicable, prohibiting the purchase or public



1 consumption of liquor by the person, if deemed
2 appropriate by the court;

3 (2) For an offense that occurs within ten years of a prior
4 conviction for an offense under this section:

5 (A) A substance abuse program of at least thirty-six
6 hours, including education and counseling, or
7 other comparable programs deemed appropriate by
8 the court;

9 (B) Revocation of license to operate a vehicle for no
10 less than two years and no more than three years;

11 (C) Installation during the revocation period of an
12 ignition interlock device on all vehicles
13 operated by the person;

14 (D) Either one of the following:

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

17 (ii) No less than five days and no more than
18 thirty days of imprisonment, of which at
19 least forty-eight hours shall be served
20 consecutively;



- 1 (E) A fine of no less than \$1,000 and no more than
- 2 \$3,000, to be deposited into the [~~state~~] drug and
- 3 alcohol toxicology testing laboratory special
- 4 fund;
- 5 (F) A surcharge of \$25 to be deposited into the
- 6 neurotrauma special fund; [~~and~~]
- 7 (G) A surcharge of up to \$50, if the court so orders,
- 8 to be deposited into the trauma system special
- 9 fund; and
- 10 (H) A probation period, commencing on the effective
- 11 date of the license revocation period under
- 12 subparagraph (B) or paragraph (3) or (5), as
- 13 applicable, prohibiting the purchase or public
- 14 consumption of liquor by the person, if deemed
- 15 appropriate by the court;
- 16 (3) In addition to a sentence imposed under paragraphs (1)
- 17 and (2), any person eighteen years of age or older who
- 18 is convicted under this section and who operated a
- 19 vehicle with a passenger, in or on the vehicle, who
- 20 was younger than fifteen years of age, shall be
- 21 sentenced to an additional mandatory fine of \$500 and



1 an additional mandatory term of imprisonment of
2 forty-eight hours; provided that the total term of
3 imprisonment for a person convicted under this
4 paragraph shall not exceed the maximum term of
5 imprisonment provided in paragraph (1) or (2), as
6 applicable. Notwithstanding paragraphs (1) and (2),
7 the revocation period for a person sentenced under
8 this paragraph shall be no less than two years;

9 (4) In addition to a sentence imposed under paragraph (1),
10 for a first offense under this section, or an offense
11 not preceded within a ten-year period by a conviction
12 for an offense, any person who is convicted under this
13 section and was a highly intoxicated driver at the
14 time of the subject incident shall be sentenced to an
15 additional mandatory term of imprisonment for
16 forty-eight consecutive hours and an additional
17 mandatory revocation period of six months; provided
18 that the total term of imprisonment for a person
19 convicted under this paragraph shall not exceed the
20 maximum term of imprisonment provided in paragraph
21 (1). Notwithstanding paragraph (1), the revocation



1 period for a person sentenced under this paragraph
2 shall be no less than eighteen months;

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

17 (6) A person sentenced pursuant to paragraph (1)(B) may
18 file a motion for early termination of the applicable
19 revocation period if the person:



- 1 (A) Was not sentenced to any additional mandatory
2 revocation period pursuant to paragraph (3) or
3 (4);
- 4 (B) Actually installed and maintained an ignition
5 interlock device on all vehicles operated by the
6 person for a continuous period of six months,
7 after which the person maintained the ignition
8 interlock device on all vehicles operated by the
9 person for a continuous period of three months
10 without violation;
- 11 (C) Includes with the person's motion for early
12 termination a certified court abstract
13 establishing that the person was not sentenced to
14 any additional mandatory revocation period
15 pursuant to paragraph (3) or (4);
- 16 (D) Includes with the person's motion for early
17 termination a certified statement from the
18 director of transportation establishing that:
- 19 (i) The person installed and maintained an
20 ignition interlock device on all vehicles



1 operated by the person for a continuous
2 period of six months; and
3 (ii) After the six-month period, the person
4 maintained the ignition interlock device on
5 all vehicles operated by the person for a
6 continuous period of three months without
7 violation; and
8 (E) Has complied with all other sentencing
9 requirements.

10 Nothing in this paragraph shall require a court to
11 grant early termination of the revocation period if
12 the court finds that continued use of the ignition
13 interlock device will further the person's
14 rehabilitation or compliance with this section;

15 (7) If the person demonstrates to the court that the
16 person:
17 (A) Does not own or have the use of a vehicle in
18 which the person can install an ignition
19 interlock device during the revocation period; or
20 (B) Is otherwise unable to drive during the
21 revocation period,



1 the person shall be prohibited from driving during the
2 period of applicable revocation provided in paragraphs
3 (1) to (5); provided that the person shall be
4 sentenced to the maximum license revocation period,
5 the court shall not issue an ignition interlock permit
6 pursuant to subsection (i), and the person shall be
7 subject to the penalties provided by section 291E-62
8 if the person drives during the applicable revocation
9 period; and

10 (8) For purposes of this subsection, "violation" means:

11 (A) Providing a sample of .04 or more grams of
12 alcohol per two hundred ten liters of breath when
13 starting the vehicle, unless a subsequent test
14 performed within ten minutes registers a breath
15 alcohol concentration lower than .02 and the
16 digital image [~~confirmed~~] confirms that the same
17 person provided both samples;

18 (B) Providing a sample of .04 or more grams of
19 alcohol per two hundred ten liters of breath on a
20 rolling retest, unless a subsequent test
21 performed within ten minutes registers a breath



1 alcohol concentration lower than .02 and the
2 digital image confirms the same person provided
3 both samples;

4 (C) Failing to provide a rolling retest, unless an
5 acceptable test is performed within ten minutes;

6 (D) Violating section 291E-66; or

7 (E) Failing to provide a clear photo of the person
8 when the person blows into the ignition interlock
9 device."

10 2. By amending subsection (d) to read:

11 "(d) Except as provided in subsection (c), the court may
12 issue a separate permit authorizing a defendant to operate a
13 vehicle owned by the defendant's employer during the period of
14 revocation without installation of an ignition interlock device
15 if the defendant is gainfully employed in a position that
16 requires driving and the defendant will be discharged if
17 prohibited from driving a vehicle not equipped with an ignition
18 interlock device. Any separate permit issued pursuant to this
19 subsection to a person prohibited from purchasing or publicly
20 consuming liquor during the probation period that commences on
21 the effective date of the administrative revocation of the



1 person's license shall bear the notation "Liquor Restricted" and
2 shall not be accepted as a valid form of identification for the
3 purchase of liquor. A separate permit that bears the notation
4 "Liquor Restricted" shall expire no later than the date upon
5 which the probation period expires."

6 3. By amending subsection (j) to read:

7 "(j) Notwithstanding any other law to the contrary,
8 whenever a court revokes a person's driver's license pursuant to
9 this section, the examiner of drivers shall not grant to the
10 person a new driver's license until the expiration of the period
11 of revocation determined by the court. After the period of
12 revocation is completed, the person may apply for, and the
13 examiner of drivers may grant to the person, a new driver's
14 license. Any new driver's license granted pursuant to this
15 subsection to a person prohibited from purchasing or publicly
16 consuming liquor during the probation period that commences on
17 the effective date of the administrative revocation of the
18 person's license shall bear the notation "Liquor Restricted" and
19 shall not be accepted as a valid form of identification for the
20 purchase of liquor. A driver's license that bears the notation



1 "Liquor Restricted" shall expire no later than the date upon
2 which the probation period expires."

3 SECTION 12. Section 291E-61.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 1. By amending subsection (d) to read:

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

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

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

13 (A) Permanent revocation of license to operate a
14 vehicle;

15 (B) No less than eighteen months imprisonment;

16 (C) A fine of no less than \$5,000 but no more than
17 \$25,000; and

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

20 In addition to the foregoing, any vehicle owned and operated by
21 the person who committed the offense shall be subject to



1 forfeiture pursuant to chapter 712A. In addition to all other
2 penalties provided, any person convicted under this section
3 shall be prohibited, for a probation period commencing on the
4 effective date of the license revocation period under
5 subparagraph (A), from purchasing or publicly consuming liquor,
6 if deemed appropriate by the court."

7 2. By amending subsection (f) to read:

8 "(f) Notwithstanding any other law to the contrary,
9 whenever a court revokes a person's driver's license pursuant to
10 this section, the examiner of drivers shall not grant to the
11 person a new driver's license until expiration of the period of
12 revocation determined by the court. After the period of
13 revocation is complete, the person may apply for, and the
14 examiner of drivers may grant to the person, a new driver's
15 license. Any new driver's license granted pursuant to this
16 subsection to a person who is prohibited from purchasing or
17 publicly consuming liquor during the probation period that
18 commences on the effective date of the administrative revocation
19 of the person's license shall bear the notation "Liquor
20 Restricted" and shall not be accepted as a valid form of
21 identification for the purchase of liquor. A driver's license



1 that bears the notation "Liquor Restricted" shall expire no
2 later than the date upon which the probation period expires."

3 SECTION 13. Section 291E-61.6, Hawaii Revised Statutes, is
4 amended to read as follows:

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

6 "(b) Any person under subsection (a) may file a petition
7 in the district court for permission to apply for an ignition
8 interlock instruction permit that will allow the person to take
9 the driving demonstration portion of the driver's license
10 examination. The petition shall be filed with the clerk of the
11 district court in the district in which the arrest occurred and
12 shall be accompanied by the required filing fee for civil
13 actions. The petition shall include the following:

14 (1) A certified court abstract establishing that other
15 than the instant offense, the petitioner has no
16 pending traffic matters, outstanding fines,
17 outstanding court costs, and outstanding restitution;

18 (2) A certified statement from the director establishing
19 that the petitioner has complied with all
20 requirements, including payment of applicable fees,
21 undergone substance abuse assessment and treatment,



1 and surrendered motor vehicle registration and vehicle
2 number plates, if applicable; and

3 (3) A proposed order.

4 In determining whether the petitioner may be granted an ignition
5 interlock instruction permit, the district court shall consider
6 whether the requirements of paragraphs (1) through (3) are met
7 and may also consider any other factors, including but not
8 limited to the petitioner's criminal and traffic record after
9 receiving a lifetime license revocation, and based on the
10 foregoing, the district court shall determine whether an order
11 allowing the petitioner to apply to the director for an ignition
12 interlock instruction permit and requiring the director to
13 remove any stopper placed on the petitioner's motor vehicle
14 registration files pursuant to part III of chapter 291E, as
15 applicable, shall be issued; provided that the petitioner
16 complies with applicable driver licensing requirements under
17 part VI of chapter 286, and proof of financial responsibility
18 under chapter 287. Upon submission of the order to the
19 director, the director shall remove any stopper placed on the
20 person's motor vehicle registration files and issue a certified



1 statement indicating eligibility for an ignition interlock
2 instruction permit.

3 Any ignition interlock instruction permit issued pursuant
4 to this subsection to a person who is prohibited from purchasing
5 or publicly consuming liquor during the probation period that
6 commences on the effective date of the administrative revocation
7 of the person's license shall bear the notation "Liquor
8 Restricted" and shall not be accepted as a valid form of
9 identification for the purchase of liquor. An ignition
10 interlock instruction permit that bears the notation "Liquor
11 Restricted" shall expire no later than the date upon which the
12 probation period expires."

13 2. By amending subsection (d) to read:

14 "(d) Upon showing the ignition interlock instruction
15 permit to the examiner of drivers, an applicant may take the
16 driving demonstration portion of the driver's license
17 examination in accordance with section 286-108. Upon successful
18 completion of the driving demonstration portion of the driver's
19 license examination, an applicant may apply to the director for
20 an ignition interlock permit pursuant to section 291E-44.5. If
21 granted, the ignition interlock permit shall expire as provided



1 in this section and section 286-106 or upon the end of the
2 revocation period, whichever occurs first.

3 Any ignition interlock permit issued pursuant to this
4 subsection to a person who is prohibited from purchasing or
5 publicly consuming liquor during the probation period that
6 commences on the effective date of the administrative revocation
7 of the person's license shall bear the notation "Liquor
8 Restricted" and shall not be accepted as a valid form of
9 identification for the purchase of liquor. An ignition
10 interlock permit that bears the notation "Liquor Restricted"
11 shall expire no later than the date upon which the probation
12 period expires."

13 SECTION 14. Section 712-1250.5, Hawaii Revised Statutes,
14 is amended to read as follows:

15 "**§712-1250.5 Promoting intoxicating liquor to a person**
16 **under the age of twenty-one[-] or a restricted person.** (1) A
17 person, including any licensee as defined in section 281-1,
18 commits the offense of promoting intoxicating liquor to a person
19 under the age of twenty-one or a restricted person if the person
20 recklessly:



1 (a) Sells or offers for sale, influences the sale, serves,
2 delivers, or gives to a person intoxicating liquor,
3 and the person receiving the intoxicating liquor is a
4 person under the age of twenty-one[+] or a restricted
5 person; or

6 (b) Permits a person to possess intoxicating liquor while
7 on property under [~~his~~] the person's control, and the
8 person possessing the intoxicating liquor is a person
9 under the age of twenty-one[-] or a restricted person.

10 (2) It is a defense to a prosecution for promoting
11 intoxicating liquor to a person under the age of twenty-one or a
12 restricted person that:

13 (a) The intoxicating liquor provided to the person under
14 the age of twenty-one or the restricted person was an
15 ingredient in a medicine prescribed by a licensed
16 physician for medical treatment of the person under
17 the age of twenty-one[+] or the restricted person;

18 (b) The intoxicating liquor was provided to the person
19 under the age of twenty-one as part of a ceremony of a
20 recognized religion;



1 (c) The defendant provided the intoxicating liquor to the
2 ~~person~~:

3 (i) Person under the age of twenty-one with the
4 belief, which was reasonable under the
5 circumstances, that the person under the age of
6 twenty-one had attained the age of twenty-one; or

7 (ii) Restricted person with the belief, which was
8 reasonable under the circumstances, that the
9 person was not a restricted person;

10 (d) The defendant provided the intoxicating liquor to the
11 person under the age of twenty-one with the express
12 consent of the parent or legal guardian and with the
13 belief, which was reasonable under the circumstances,
14 that the person under the age of twenty-one would not
15 consume any portion of the substance;

16 (e) The defendant provided the intoxicating liquor to the
17 person under the age of twenty-one with the express
18 consent of the parent or legal guardian and with the
19 belief, which was reasonable under the circumstances,
20 that the person under the age of twenty-one would



1 consume the substance only in the presence of the
2 parent or legal guardian; or

3 (f) The intoxicating liquor was possessed by the person
4 under the age of twenty-one or the restricted person
5 to be sold or served as allowed by law.

6 (3) The fact that a person engaged in the conduct
7 specified by this section is prima facie evidence that the
8 person engaged in that conduct with knowledge of the character,
9 nature, and quantity of the intoxicating liquor possessed,
10 distributed, or sold.

11 The fact that the defendant distributed or sold
12 intoxicating liquor to a person under the age of twenty-one or a
13 restricted person is prima facie evidence that the defendant
14 knew the transferee was a person under the age of twenty-one[7]
15 or a restricted person, except as provided in subsection (2)(c).

16 (4) Promoting intoxicating liquor to a person under the
17 age of twenty-one or a restricted person is a misdemeanor.

18 (5) For purposes of this section, "restricted person"
19 means a person who holds any driver's license, identification
20 card, ignition interlock permit, or special permit that bears
21 the notation "Liquor Restricted" due to conviction or



1 administrative license revocation for violation of
2 section 291E-61 or 291E-61.5."

3 SECTION 15. Section 712-1252, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§712-1252 Knowledge of character, nature, or quantity of**
6 **substance, or character or age of transferee; prima facie**
7 **evidence.** (1) The fact that a person engaged in the conduct
8 specified by any section in this part is prima facie evidence
9 that the person engaged in that conduct with knowledge of the
10 character, nature, and quantity of the dangerous drug, harmful
11 drug, detrimental drug, or intoxicating compounds possessed,
12 distributed, or sold.

13 (2) The fact that the defendant distributed or sold a
14 dangerous drug, harmful drug, detrimental drug, or intoxicating
15 compound to a minor or a restricted person is prima facie
16 evidence that the defendant knew the transferee to be a minor[-]
17 or a restricted person.

18 (3) For purposes of this section, "restricted person" has
19 the same meaning as in section 712-1250.5."



1 SECTION 16. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

4 SECTION 17. If any provision of this Act, or the
5 application thereof to any person or circumstance, is held
6 invalid, the invalidity does not affect other provisions or
7 applications of the Act that can be given effect without the
8 invalid provision or application, and to this end the provisions
9 of this Act are severable.

10 SECTION 18. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 19. This Act shall take effect on July 1, 3000;
13 provided that the amendments made to section 291E-61, Hawaii
14 Revised Statutes, by section 11 of this Act shall not be
15 repealed when that section is reenacted on June 30, 2028,
16 pursuant to section 11 of Act 196, Session laws of Hawaii 2021,
17 as amended by Act 148, Session Laws of Hawaii 2023.



Report Title:

Intoxicating Liquor; Operating a Vehicle Under the Influence;
Public Consumption; Purchase; Prohibition

Description:

Prohibits any person convicted of operating a vehicle under the influence of an intoxicant or habitually operating a vehicle under the influence of an intoxicant from purchasing or publicly consuming alcohol for a certain period. Effective 7/1/3000.
(HD1)

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