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## A BILL FOR AN ACT

RELATING TO FINES FOR DRIVING UNDER THE INFLUENCE OF AN  
INTOXICANT.

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

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

3           "**§291E-61 Operating a vehicle under the influence of an**  
4 **intoxicant.** (a) A person commits the offense of operating a  
5 vehicle under the influence of an intoxicant if the person  
6 operates or assumes actual physical control of a vehicle:

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

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

14          (3) With .08 or more grams of alcohol per two hundred ten  
15          liters of breath; or

16          (4) With .08 or more grams of alcohol per one hundred  
17          milliliters or cubic centimeters of blood.



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

5 (1) For the first offense, or any offense not preceded  
6 within a five-year period by a conviction for an  
7 offense under this section or section 291E-4(a):

8 (A) A fourteen-hour minimum substance abuse  
9 rehabilitation program, including education and  
10 counseling, or other comparable program deemed  
11 appropriate by the court;

12 (B) Ninety-day prompt suspension of license and  
13 privilege to operate a vehicle during the  
14 suspension period, or the court may impose, in  
15 lieu of the ninety-day prompt suspension of  
16 license, a minimum thirty-day prompt suspension  
17 of license with absolute prohibition from  
18 operating a vehicle and, for the remainder of the  
19 ninety-day period, a restriction on the license  
20 that allows the person to drive for limited  
21 work-related purposes and to participate in  
22 substance abuse treatment programs;



- 1 (C) Any one or more of the following:
  - 2 (i) Seventy-two hours of community service work;
  - 3 (ii) Not less than forty-eight hours and not more
  - 4 than five days of imprisonment; or
  - 5 (iii) A fine of not less than [~~\$150~~] \$300 but not
  - 6 more than [~~\$1,000~~] \$2,000; and
- 7 (D) A surcharge of \$25 to be deposited into the
- 8 neurotrauma special fund;
- 9 (2) For an offense committed by a highly intoxicated
- 10 driver, prompt suspension of license and privilege to
- 11 operate a vehicle for a period of six months with an
- 12 absolute prohibition from operating a vehicle during
- 13 the suspension period;
- 14 (3) For an offense that occurs within five years of a
- 15 prior conviction for an offense under this section or
- 16 section 291E-4(a) by:
  - 17 (A) Prompt suspension of license and privilege to
  - 18 operate a vehicle for a period of one year with
  - 19 an absolute prohibition from operating a vehicle
  - 20 during the suspension period;
  - 21 (B) Either one of the following:



- 1                   (i) Not less than two hundred forty hours of  
2                   community service work; or
- 3                   (ii) Not less than five days but not more than  
4                   fourteen days of imprisonment of which at  
5                   least forty-eight hours shall be served  
6                   consecutively;
- 7                   (C) A fine of not less than \$500 but not more than  
8                   \$1,500; and
- 9                   (D) A surcharge of \$25 to be deposited into the  
10                  neurotrauma special fund;
- 11           (4) For an offense that occurs within five years of two  
12           prior convictions for offenses under this section or  
13           section 291E-4(a):
- 14                   (A) A fine of not less than \$500 but not more than  
15                   \$2,500;
- 16                   (B) Revocation of license and privilege to operate a  
17                   vehicle for a period not less than one year but  
18                   not more than five years;
- 19                   (C) Not less than ten days but not more than thirty  
20                   days imprisonment of which at least forty-eight  
21                   hours shall be served consecutively;



- 1 (D) A surcharge of \$25 to be deposited into the  
2 neurotrauma special fund; and
- 3 (E) Forfeiture under chapter 712A of the vehicle  
4 owned and operated by the person committing the  
5 offense; provided that the department of  
6 transportation shall provide storage for vehicles  
7 forfeited under this subsection; and
- 8 (5) Any person eighteen years of age or older who is  
9 convicted under this section and who operated a  
10 vehicle with a passenger, in or on the vehicle, who  
11 was younger than fifteen years of age, shall be  
12 sentenced to an additional mandatory fine of \$500 and  
13 an additional mandatory term of imprisonment of  
14 forty-eight hours; provided that the total term of  
15 imprisonment for a person convicted under this  
16 paragraph shall not exceed the maximum term of  
17 imprisonment provided in paragraph (1), [†](3)[†], or  
18 [†](4)[†].
- 19 (c) Notwithstanding any other law to the contrary, any:
- 20 (1) Conviction under this section, section 291E-4(a), or  
21 section 291E-61.5;



1           (2) Conviction in any other state or federal jurisdiction  
2           for an offense that is comparable to operating or  
3           being in physical control of a vehicle while having  
4           either an unlawful alcohol concentration or an  
5           unlawful drug content in the blood or urine or while  
6           under the influence of an intoxicant or habitually  
7           operating a vehicle under the influence of an  
8           intoxicant; or

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

13 shall be considered a prior conviction for the purposes of  
14 imposing sentence under this section. Any judgment on a verdict  
15 or a finding of guilty, a plea of guilty or nolo contendere, or  
16 an adjudication in the case of a minor, that at the time of the  
17 offense has not been expunged by pardon, reversed, or set aside  
18 shall be deemed a prior conviction under this section. No  
19 license and privilege suspension or revocation shall be imposed  
20 pursuant to this section if the person's license and privilege  
21 to operate a vehicle has previously been administratively  
22 revoked pursuant to part III for the same act; provided that, if



1 the administrative suspension or revocation is subsequently  
2 reversed, the person's license and privilege to operate a  
3 vehicle shall be suspended or revoked as provided in this  
4 section.

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

16 (e) 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 the expiration of the period  
20 of revocation determined by the court. After the period of  
21 revocation is completed, the person may apply for and the



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

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

9 (g) The requirement to provide proof of financial  
10 responsibility pursuant to section 287-20 shall not be based  
11 upon a sentence imposed under subsection (b)(1).

12 (h) As used in this section, the term "examiner of  
13 drivers" has the same meaning as provided in section 286-2.

14 (i) The state director of finance shall transmit to each  
15 county, not more than thirty days after the end of each fiscal  
16 quarter, the fines collected for convictions of persons charged  
17 with violations of this section that are committed in that  
18 county, to be used only for design, construction, maintenance,  
19 and repair of roads in that county."

20 SECTION 2. This Act does not affect rights and duties that  
21 matured, penalties that were incurred, and proceedings that were  
22 begun, before its effective date.



1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

~~Jefferson~~  
Mell Carroll  
Cindy Brown  
Josh M...  
~~[Signature]~~  
[Signature]  
[Signature]

~~John M. Nigro~~  
Tommy White

~~[Signature]~~

~~Guthrie Heiler~~

~~Karen Awana~~

~~Karl Wood~~

Jesse C. Belatti

Almond D. Smith III

~~Shirley Meyers~~

[Signature]

~~[Signature]~~

Jim Ward

Tom Brown

[Signature]

[Signature]



**Report Title:**

DUI; Fines; County Highways

**Description:**

Doubles the fine for first time DUI offenders. Requires the state director of finance to pay fines received from DUI offenders to the county in which the offense occurred for use in road design, construction, maintenance, and repair.

