
A BILL FOR AN ACT

RELATING TO USE OF INTOXICANTS WHILE OPERATING A VEHICLE.

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

1 SECTION 1. Chapter 291E, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:

4 "§291E- Operating a vehicle after consuming a measurable
5 amount of alcohol; persons over the age of twenty-one. (a) It
6 shall be unlawful for any person over the age of twenty-one
7 years to operate any vehicle with a measurable amount of
8 alcohol.

9 (b) A person who violates this section shall be subject to
10 a maximum fine of \$2,000.

11 §291E- Disposition of fines paid. (a) The judiciary
12 shall identify to the state director of finance, by county,
13 those fines paid for conviction of an offense under part IV.
14 The state director of finance shall transmit to each county, not
15 more than thirty days after the end of each fiscal quarter,
16 fifty per cent of the fines paid for conviction of an offense
17 under part IV committed in that county that are in excess of
18 amounts required by the State to pay the administrative costs of



1 the traffic violations bureau. Amounts received by the counties
2 shall be used solely for police enforcement of traffic laws.
3 The balance shall be transmitted to the judiciary to fund
4 proceedings conducted by the judiciary pursuant to part III.

5 (b) This section shall not apply to any sums paid that are
6 required by law to be paid into a special, revolving, or trust
7 fund.

8 (c) Not later than twenty days prior to the convening of
9 each regular session, the state director of finance shall
10 provide to the legislature a report of the amounts transmitted
11 under subsection (a)."

12 SECTION 2. Section 291E-38, Hawaii Revised Statutes, is
13 amended as follows:

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

15 "(d) The director shall conduct the hearing and have
16 authority to:

17 (1) Administer oaths and affirmations;

18 (2) Examine witnesses and take testimony;

19 (3) Receive and determine the relevance of evidence;

20 (4) Issue subpoenas;

21 (5) Regulate the course and conduct of the hearing;



1 (6) Impose [~~up to the maximum~~] license revocation [~~period~~
2 periods as specified under section 291E-41(b); and

3 (7) Make a final ruling."

4 2. By amending subsection (k) to read:

5 "(k) For good cause shown, the director may grant a
6 continuance either of the commencement of the hearing or of a
7 hearing that has already commenced. If a continuance is granted
8 at the request of the director, the director shall extend the
9 validity of the temporary permit, and temporary motor vehicle
10 registration and temporary number plates if applicable, unless
11 otherwise prohibited, for a period not to exceed the period of
12 five working days after the continuance. If a continuance is
13 granted at the request of the respondent, the director shall not
14 extend the validity of the temporary permit, or temporary motor
15 vehicle registration and temporary number plates, if applicable.
16 For purposes of this section, a continuance means a delay in the
17 commencement of the hearing or an interruption of a hearing that
18 has commenced, other than for recesses during the day or at the
19 end of the day or week. The absence from the hearing of a law
20 enforcement officer or other person, upon whom personal service
21 of a subpoena has been made as set forth in subsection (h),
22 constitutes good cause for a continuance."



1 SECTION 3. Section 291E-41, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The periods of administrative revocation with respect
4 to a license and privilege to operate a vehicle, and motor
5 vehicle registration if applicable, that shall be imposed under
6 this part are as follows:

- 7 (1) [~~A minimum of three~~] Three months [~~up to a maximum of~~
8 ~~one year~~] revocation of license and privilege to
9 operate a vehicle, if the respondent's record shows no
10 prior alcohol enforcement contact or drug enforcement
11 contact during the five years preceding the date the
12 notice of administrative revocation was issued;
- 13 (2) For a respondent who is a highly intoxicated driver, a
14 mandatory six-month revocation of license and
15 privilege to operate a vehicle and of the registration
16 of any motor vehicle registered to the highly
17 intoxicated driver; provided that the highly
18 intoxicated driver shall not qualify for a conditional
19 license permit under section 291E-44;
- 20 (3) [~~A minimum of one~~] One year [~~up to a maximum of two~~
21 ~~years~~] revocation of license and privilege to operate
22 a vehicle and of the registration of any motor vehicle



1 registered to the respondent, if the respondent's
2 record shows one prior alcohol enforcement contact or
3 drug enforcement contact during the five years
4 preceding the date the notice of administrative
5 revocation was issued;

6 (4) [~~A minimum of two~~] Two years [~~up to a maximum of four~~
7 ~~years~~] revocation of license and privilege to operate
8 a vehicle and of the registration of any motor vehicle
9 registered to the respondent, if the respondent's
10 record shows two prior alcohol enforcement contacts or
11 drug enforcement contacts during the seven years
12 preceding the date the notice of administrative
13 revocation was issued;

14 (5) Lifetime revocation of license and privilege to
15 operate a vehicle and of the registration of any motor
16 vehicle registered to the respondent and a lifetime
17 prohibition on any subsequent registration of motor
18 vehicles by the respondent, if the respondent's record
19 shows three or more prior alcohol enforcement contacts
20 or drug enforcement contacts during the ten years
21 preceding the date the notice of administrative
22 revocation was issued; or



1 (6) For respondents under the age of eighteen years who
2 were arrested for a violation of section 291E-61 or
3 291E-61.5, revocation of license and privilege to
4 operate a vehicle either for the period remaining
5 until the respondent's eighteenth birthday or, if
6 applicable, for the appropriate revocation period
7 provided in paragraphs (1) to (5) or in subsection
8 (d), whichever is longer and such respondents shall
9 not qualify for a conditional permit;
10 provided that when more than one administrative revocation,
11 suspension, or conviction arises out of the same arrest, it
12 shall be counted as only one prior alcohol enforcement contact
13 or drug enforcement contact, whichever revocation, suspension,
14 or conviction occurs later."

15 SECTION 4. Section 291E-44, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) (1) During the administrative hearing, the director,
18 at the request of a respondent who is subject to
19 administrative revocation for a period as provided in
20 section 291E-41(b)(1), may issue a conditional license
21 permit that will allow the respondent, after a minimum
22 period of absolute license revocation of thirty days,



1 to drive for the remainder of the revocation period;
2 provided that one or more of the following conditions
3 are met:

4 (A) The respondent is gainfully employed in a
5 position that requires driving and will be
6 discharged if the respondent's driving privileges
7 are administratively revoked; or

8 (B) The respondent has no access to alternative
9 transportation and therefore must drive to work,
10 school, vocational training, or to a substance
11 abuse treatment facility or counselor for
12 treatment ordered by the director under section
13 291E-41; [~~or~~]

14 (C) The respondent must drive for personal medical or
15 dental care or treatment; or

16 (D) The respondent needs to drive to assist in the
17 care of another person who is unable to drive due
18 to the other person's age, disability, or medical
19 condition; or

20 (2) Notwithstanding any other law to the contrary, the
21 director shall not issue a conditional license permit
22 to:



- 1 (A) A respondent whose license, during the
- 2 conditional license permit period, is expired,
- 3 suspended, or revoked as a result of action other
- 4 than the instant revocation for which the
- 5 respondent is requesting a conditional license
- 6 permit under this section;
- 7 (B) A respondent who has refused breath, blood, or
- 8 urine tests for purposes of determining alcohol
- 9 concentration or drug content of the person's
- 10 breath, blood, or urine, as applicable;
- 11 (C) A respondent who is a highly intoxicated driver;
- 12 and
- 13 (D) A respondent who holds either a category 4
- 14 license under section 286-102(b) or a commercial
- 15 driver's license under section 286-239(b) [~~unless~~
- 16 ~~the~~], except that a respondent who holds a
- 17 commercial driver's license under section
- 18 286-239(b) shall be permitted to obtain a
- 19 category 3 conditional license permit [is
- 20 ~~restricted to a category 1, 2, or 3 license under~~
- 21 section 286-102(b)]., provided that the



1 respondent qualifies for a permit under paragraph
2 (a) (1) (B), (C), or (D)."

3 SECTION 5. Section 291E-61, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

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

9 (1) For the first offense, or any offense not preceded
10 within a five-year period by a conviction for an
11 offense under 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) [~~Ninety-day~~] A minimum of ninety-day up to a
17 maximum of one year prompt suspension of license
18 and privilege to operate a vehicle during the
19 suspension period, or the court may impose[~~7 in~~
20 ~~lieu of the ninety-day prompt suspension of~~
21 ~~license,~~] a minimum thirty-day prompt suspension
22 of license with absolute prohibition from



- 1 operating a vehicle and, for the remainder of the
2 [~~ninety-day~~] period, a restriction on the license
3 that allows the person to drive for limited
4 work-related purposes and to participate in
5 substance abuse treatment programs;
- 6 (C) Any one or more of the following:
- 7 (i) Seventy-two hours of community service work;
- 8 (ii) Not less than forty-eight hours and not more
9 than five days of imprisonment; or
- 10 (iii) A fine of not less than [~~\$150~~] \$500 but not
11 more than \$1,000; and
- 12 (D) A surcharge of \$25 to be deposited into the
13 neurotrauma special fund;
- 14 (2) For an offense committed by a highly intoxicated
15 driver, prompt suspension of license and privilege to
16 operate a vehicle for a period of six months with an
17 absolute prohibition from operating a vehicle during
18 the suspension period;
- 19 (3) For an offense that occurs within five years of a
20 prior conviction for an offense under this section or
21 section 291E-4(a) by:



- 1 (A) Prompt suspension of license and privilege to
2 operate a vehicle for a period of at least one
3 year and a maximum of two years with an absolute
4 prohibition from operating a vehicle during the
5 suspension period;
- 6 (B) Either one of the following:
- 7 (i) Not less than two hundred forty hours of
8 community service work; or
- 9 (ii) Not less than five days but not more than
10 fourteen days of imprisonment of which at
11 least forty-eight hours shall be served
12 consecutively;
- 13 (C) A fine of not less than [~~\$500~~] \$750 but not more
14 than \$1,500; and
- 15 (D) A surcharge of \$25 to be deposited into the
16 neurotrauma special fund;
- 17 (4) For an offense that occurs within five years of two
18 prior convictions for offenses under this section or
19 section 291E-4(a):
- 20 (A) A fine of not less than [~~\$500~~] \$1,000 but not
21 more than \$2,500;



- 1 (B) Revocation of license and privilege to operate a
2 vehicle for a period not less than [~~one year~~] two
3 years but not more than five years;
- 4 (C) Not less than ten days but not more than thirty
5 days imprisonment of which at least forty-eight
6 hours shall be served consecutively;
- 7 (D) A surcharge of \$25 to be deposited into the
8 neurotrauma special fund; and
- 9 (E) Forfeiture under chapter 712A of the vehicle
10 owned and operated by the person committing the
11 offense; provided that the department of
12 transportation shall provide storage for vehicles
13 forfeited under this subsection; and
- 14 (5) Any person eighteen years of age or older who is
15 convicted under this section and who operated a
16 vehicle with a passenger, in or on the vehicle, who
17 was younger than fifteen years of age, shall be
18 sentenced to an additional mandatory fine of \$500 and
19 an additional mandatory term of imprisonment of
20 forty-eight hours; provided that the total term of
21 imprisonment for a person convicted under this
22 paragraph shall not exceed the maximum term of



1 imprisonment provided in paragraph (1), [†](3)[†], or
2 [†](4)[†]."

3 SECTION 6. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun, before its effective date.

6 SECTION 7. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 8. This Act shall take effect on July 1, 2007.

9

INTRODUCED BY:



JAN 24 2007



Report Title:

DUI; Penalties

Description:

Establishes offense of driving after consumption of alcohol. Amends administrative license revocation procedures, periods of revocation, and conditional permit conditions. Requires 50% of DUI fines to be paid to counties for traffic enforcement and 50% to judiciary for administrative revocation proceedings. Requires annual report to the legislature of fines distributed.

