

JAN 23 2015

A BILL FOR AN ACT

RELATING TO OPERATING A VEHICLE WHILE 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 by amending subsection (b) to read as follows:

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

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

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

14 (B) One-year revocation of license and privilege to
15 operate a vehicle during the revocation period
16 and installation during the revocation period of



an ignition interlock device on any vehicle
operated by the person;

(C) Any one or more of the following:

(i) Seventy-two hours of community service work;

(ii) Not less than forty-eight hours and not more
than five days of imprisonment; or

(iii) A fine of not less than \$150 but not more
than \$1,000;

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

(E) A surcharge, if the court so orders, of up to \$25
to be deposited into the trauma system special
fund;

(2) For an offense that occurs within five years of a
prior conviction for an offense under this section or
section 291E-4(a):

(A) Revocation for not less than eighteen months nor
more than two years of license and privilege to
operate a vehicle during the revocation period
and installation during the revocation period of



an ignition interlock device on any vehicle
operated by the person;

(B) Either one of the following:

(i) Not less than two hundred forty hours of
community service work; or

(ii) Not less than five days but not more than
thirty days of imprisonment, of which at
least forty-eight hours shall be served
consecutively;

(C) A fine of not less than \$500 but not more than
\$1,500;

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

(E) A surcharge of up to \$50 if the court so orders,
to be deposited into the trauma system special
fund;

(3) For an offense that occurs within five years of two
prior convictions for offenses under this section or
section 291E-4(a):

(A) A fine of not less than \$500 but not more than
\$2,500;



1 (B) Revocation for two years of license and privilege
2 to operate a vehicle during the revocation period
3 and installation during the revocation period of
4 an ignition interlock device on any vehicle
5 operated by the person;

6 (C) Not less than ten days but not more than thirty
7 days imprisonment, of which at least forty-eight
8 hours shall be served consecutively;

9 (D) A surcharge of \$25 to be deposited into the
10 neurotrauma special fund; and

11 (E) A surcharge of up to \$50 if the court so orders,
12 to be deposited into the trauma system special
13 fund;

14 (4) ~~[In addition to a sentence imposed under paragraphs~~
15 ~~(1) through (3), any person eighteen years of age or~~
16 ~~older who is convicted under this section and who~~
17 ~~operated a vehicle with a passenger, in or on the~~
18 ~~vehicle, who was younger than fifteen years of age,~~
19 ~~shall be sentenced to an additional mandatory fine of~~
20 ~~\$500 and an additional mandatory term of imprisonment~~
21 ~~of forty eight hours; provided that the total term of~~



1 ~~imprisonment for a person convicted under this~~
2 ~~paragraph shall not exceed the maximum term of~~
3 ~~imprisonment provided in paragraph (1), (2), or (3),~~
4 ~~as applicable. Notwithstanding paragraphs (1) and~~
5 ~~(2), the revocation period for a person sentenced~~
6 ~~under this paragraph shall be not less than two years,~~
7 ~~and]~~ Any person convicted under this section who
8 operated or assumed actual physical control of a
9 vehicle with a passenger in or on the vehicle who was
10 fifteen years of age or younger shall be guilty of a
11 class C felony and shall:

12 (A) Be sentenced in accordance with sections 706-640
13 and 706-660;

14 (B) Be revoked of license and privilege to operate a
15 vehicle for a period of two years and shall
16 install during the revocation period an ignition
17 interlock device on any vehicle operated by the
18 person;

19 (C) Pay a surcharge of \$25 to be deposited into the
20 neurotrauma special fund; and



1 (D) Pay a surcharge of no more than \$50, if ordered
2 by the court, to be deposited into the trauma
3 system special fund;

4 provided that notwithstanding section 281-101.5, this
5 paragraph shall apply to any person convicted of
6 operating a vehicle under the influence of an
7 intoxicant who is eighteen years of age or older but
8 under the age of twenty-one, with .02 or more grams of
9 alcohol per two hundred ten liters of breath or one
10 hundred milliliters or cubic centimeters of blood at
11 the time the offense is committed; and

12 (5) If the person demonstrates to the court that the
13 person:

14 (A) Does not own or have the use of a vehicle in
15 which the person can install an ignition
16 interlock device during the revocation period; or

17 (B) Is otherwise unable to drive during the
18 revocation period,

19 the person shall be absolutely prohibited from driving
20 during the period of applicable revocation provided in
21 paragraphs (1) to (4); provided that the court shall



1 not issue an ignition interlock permit pursuant to
 2 subsection (i) and the person shall be subject to the
 3 penalties provided by section 291E-62 if the person
 4 drives during the applicable revocation period."

5 SECTION 2. This Act does not affect rights and duties that
 6 matured, penalties that were incurred, and proceedings that were
 7 begun before its effective date.

8 SECTION 3. Statutory material to be repealed is bracketed
 9 and stricken. New statutory material is underscored.

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

11 INTRODUCED BY:

Paul E. J.
Enzmann Chun Clarke
Will Eger
Renee de Boh
Mr. Chang
Ramon Huel
D.C. Rodriguez
Josh R.
M. R.



Report Title:

Motor Vehicles; Operating a Vehicle While Under the Influence of an Intoxicant; Vehicle Passengers; Alcohol Levels; Penalty

Description:

Increases the penalty for the offense of operating a vehicle under the influence of an intoxicant to a class C felony if the defendant operated a vehicle with a passenger who was fifteen years of age or younger. Establishes minimum breath and blood alcohol levels for defendants who are between eighteen and twenty-one years of age and convicted of operating a vehicle under the influence of an intoxicant with a passenger who was fifteen years of age or younger.

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

