

JAN 20 2017

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. The legislature finds that there is a need to
2 amend the definition of "drug" for offenses under chapter 291E,
3 Hawaii Revised Statutes, involving the use of intoxicants while
4 operating a vehicle. For example, in order to convict an
5 offender of operating a vehicle under the influence of an
6 intoxicant when the intoxicant is a drug under section 291E-
7 61(a)(2), Hawaii Revised Statutes, the prosecution must prove
8 beyond a reasonable doubt that:

9 (1) The person was operating a vehicle; and

10 (2) The person was under the influence of any drug that
11 impaired the person's ability to operate the vehicle
12 in a careful and prudent manner.

13 However, because the term "drug" is defined for purposes of
14 chapter 291E, Hawaii Revised Statutes, as any controlled
15 substance listed in schedules I through IV of chapter 329,
16 Hawaii Revised Statutes, it can be difficult for the prosecution



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1 to prove the second prong of the foregoing offense because many
2 drugs like kawa, seroquel, and certain muscle relaxants can
3 cause serious impairment of drivers but are not scheduled as
4 controlled substances.

5 The legislature further finds that the process of placing a
6 drug or substance on the schedule of controlled substances does
7 not respond quickly enough to emerging drugs. Synthetic drugs
8 can be manufactured very rapidly and can avoid law enforcement
9 when they are created by changing the chemical composition of an
10 existing drug; in this manner, synthetic drugs like "spice" and
11 "bath salts" evade the scheduling process. In order to quickly
12 adapt and prosecute offenders using new emerging drugs, law
13 enforcement should not be forced to rely solely on the
14 controlled substance schedules for certain offenses.

15 The purpose of this Act is to amend the definition of
16 "drug" for offenses under chapter 291E, Hawaii Revised Statutes,
17 involving the use of intoxicants while operating a vehicle.

18 SECTION 2. Section 291E-1, Hawaii Revised Statutes, is
19 amended by amending the definition of "drug" to read as follows:

20 "Drug" means any ~~[controlled substance, as defined and~~
21 ~~enumerated in schedules I through IV of chapter 329, or its~~



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1 ~~metabolites.]~~ substance that, when taken into the human body,
2 can impair the ability of a person to operate a vehicle safely."

3 SECTION 3. 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 4. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect upon its approval.
9

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Report Title:

Penal Code; Operating a Vehicle Under the Influence of an Intoxicant; Definition of "Drug"

Description:

Amends the definition of "drug" for Operating a Vehicle Under the Influence of an Intoxicant (OVUII) offenses under Chapter 291E, Hawaii Revised Statutes.

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