

JAN 20 2017

A BILL FOR AN ACT

RELATING TO CONTINUOUS ALCOHOL MONITORING FOR REPEAT OFFENDERS.

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

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

4 "§291E- Continuous alcohol monitoring device;
5 requirement; penalties. (a) Any person arrested for a
6 violation of section 291E-61 or 291E-61.5:

7 (1) Within five years of a prior conviction for an offense
8 under section 291E-61 or 291E-61.5; or

9 (2) While pending criminal investigation or prosecution
10 for one or more prior charges of violating section
11 291E-61 or 291E-61.5,

12 shall be fitted with a continuous alcohol monitoring device by a
13 police officer of the county in which the offense occurred, a
14 representative designated by the chief of police, a deputy
15 sheriff, or other representative designated by the sheriff before
16 the person is released on bail, recognizance, or supervised
17 release. The police officer, representative, or deputy sheriff



1 shall order the arrested person fitted with the device to
2 refrain from consuming any alcohol and to submit to monitoring
3 by continuous alcohol monitoring device for a period of ninety
4 days. The police officer, representative, or deputy sheriff
5 shall further order the arrested person to refrain from
6 removing, obstructing, or tampering with the device.

7 (b) All costs associated with the monitoring device,
8 including administrative and operating costs, shall be paid by
9 the arrested person. If at any time a court finds that the
10 arrested person lacks the financial ability to pay all or part
11 of the costs for a continuous alcohol monitoring device, the
12 court may authorize the State to finance the arrested person's
13 use of a continuous alcohol monitoring device. A determination
14 that an arrested person lacks the financial ability to pay all
15 or part of the costs for a monitoring device shall be based upon
16 an appropriate inquiry into the financial circumstances of the
17 arrested person and an affidavit or a certificate, signed by the
18 arrested person, demonstrating the person's financial inability
19 to pay the costs for a continuous alcohol monitoring device.

20 (c) At the arrested person's initial court appearance, the
21 court shall order the person to refrain from consuming any



1 alcohol and to submit to monitoring by continuous alcohol
2 monitoring device for no less than ninety days as conditions of
3 release on bail. As further conditions of release on bail, the
4 court shall order the person to refrain from removing,
5 obstructing, or tampering with the device during the applicable
6 period. Notwithstanding any law to the contrary, the court
7 shall not modify or suspend these conditions, except that the
8 court may extend the applicable period beyond ninety days, as
9 reasonably necessary to ensure the safety of the community. If
10 the person was not previously fitted with a continuous alcohol
11 monitoring device, the court shall order the person to be fitted
12 with a continuous alcohol monitoring device within five business
13 days.

14 (d) For purposes of this section, and notwithstanding any
15 law to the contrary, if the arrested person violates any of the
16 conditions of release on bail as specified in subsection (c),
17 the court, at the earliest practicable time, shall declare the
18 bail forfeited and reset bail in the same amount or higher. The
19 court shall not vacate this judgment or reinstate the forfeited
20 bail.



1 (e) Nothing in this section shall prevent a court from
2 ordering a defendant to submit to monitoring by a continuous
3 alcohol monitoring device, as a condition of release on bail,
4 recognizance, supervised release or sentencing, for violation of
5 section 291E-61, 291E-61.5, or any other section, if otherwise
6 permitted by law."

7 SECTION 2. Section 291E-1, Hawaii Revised Statutes, is
8 amended by adding a new definition to be appropriately inserted
9 and to read as follows:

10 "Continuous alcohol monitoring device" means any device or
11 instrument that:

- 12 (1) Is attached to the person;
13 (2) Designed to automatically test the alcohol content in
14 a person by contact with the person's skin at least
15 once per one-half hour regardless of the person's
16 location;
17 (3) Detects the presence of alcohol; and
18 (4) Detects attempts to tamper with, obstruct, or remove
19 the device."



S.B. NO. 494

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

4 SECTION 4. New statutory material is underscored.

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

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INTRODUCED BY: *MMN. Di*
By Request



S.B. NO. 494

Report Title:

Honolulu Prosecuting Attorney Package; Continuous Alcohol Monitoring; Driving Under the Influence

Description:

Requires persons arrested for operating a vehicle under the influence of an intoxicant or habitually operating a vehicle under the influence of an intoxicant to be fitted with a continuous alcohol monitoring device if the person: (1) has a prior conviction for operating a vehicle under the influence of an intoxicant or habitually operating a vehicle under the influence of an intoxicant within the past five years; or (2) is currently pending criminal investigation or prosecution for one or more prior charges of operating a vehicle under the influence of an intoxicant or habitually operating a vehicle under the influence of an intoxicant.

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

