
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 charged with 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 refrain from consuming any alcohol and shall submit to
13 monitoring by continuous alcohol monitoring device for a period
14 of no less than ninety days. If, following the person's arrest,
15 the person is released on bail by the sheriff, deputy sheriff,
16 chief of police, or any person named by the chief of police, the
17 person shall be scheduled for an initial court appearance within
18 five business days.



1 (b) At the person's initial court appearance, the person
2 shall be ordered to refrain from consuming any alcohol and to
3 submit to monitoring by continuous alcohol monitoring device for
4 not less than ninety days as conditions of release on bail. As
5 further conditions of release on bail, the person shall be
6 ordered to refrain from removing, obstructing, or tampering with
7 the device during the applicable period. The applicable period
8 may be extended by the court at any time beyond ninety days, as
9 reasonably necessary to ensure the safety of the community, but
10 may not be shortened or suspended. The person shall be fitted
11 with a continuous alcohol monitoring device within five business
12 days of their initial court appearance.

13 (c) All costs associated with the monitoring device,
14 including administrative and operating costs, shall be paid by
15 the person. If at any time a court finds that the person lacks
16 the financial ability to pay all or part of the costs for a
17 continuous alcohol monitoring device, the court may authorize
18 the State to finance the person's use of a continuous alcohol
19 monitoring device. A determination that a person lacks the
20 financial ability to pay all or part of the costs for a
21 monitoring device shall be based upon an appropriate inquiry



1 into the financial circumstances of the person and an affidavit
2 or a certificate, signed by the person, demonstrating the
3 person's financial inability to pay the costs for a continuous
4 alcohol monitoring device.

5 (d) For purposes of this section, and notwithstanding any
6 law to the contrary, if the person violates any of the
7 conditions of release on bail as specified in subsection (b),
8 the person's bail shall be reset bail in the same amount or
9 higher. Such judgment shall not be vacated, nor shall the
10 forfeited bail be reinstated.

11 (e) Nothing in this section shall prevent a court from
12 ordering a defendant to submit to monitoring by a continuous
13 alcohol monitoring device, as a condition of release on bail,
14 recognizance, supervised release or sentencing, for violation of
15 section 291E-61 or 291E-61.5 as a first offense or for violation
16 of any other section, if otherwise permitted by law."

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

20 "Continuous alcohol monitoring device" means any device or
21 instrument that:



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

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

12 SECTION 4. New statutory material is underscored.

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

14

Report Title:

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

Description:

Requires persons charged with 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. (SD1)

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