
A BILL FOR AN ACT

RELATING TO THE 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 a new section to be appropriately designated
3 and to read as follows:

4 "§291E- State drug and alcohol toxicology testing
5 laboratory special fund; established. There is established in
6 the state treasury a state drug and alcohol toxicology testing
7 laboratory special fund, into which shall be deposited:

- 8 (1) All fines collected pursuant to sections
9 291E-61(b)(2)(C), 291E-61.5(d)(2)(C), and 291E-62(c);
10 (2) Moneys appropriated by the legislature to the fund;
11 (3) Other grants and gifts made to the fund; and
12 (4) Any income and any interest earned on the balance of
13 the fund.

14 Moneys in the special fund shall be expended by the department
15 of health to support a state drug and alcohol toxicology
16 laboratory."



1 SECTION 2. 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 ten-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
17 an ignition interlock device on any vehicle
18 operated by the person;

19 (C) Any one or more of the following:

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



- 1 (ii) No less than forty-eight hours and no more
2 than five days of imprisonment; or
- 3 (iii) A fine of no less than \$250 but no more than
4 \$1,000;
- 5 (D) A surcharge of \$25 to be deposited into the
6 neurotrauma special fund; and
- 7 (E) A surcharge, if the court so orders, of up to \$25
8 to be deposited into the trauma system special
9 fund;
- 10 (2) For an offense that occurs within ten years of a prior
11 conviction for an offense under this section or
12 section 291E-4(a):
- 13 (A) Revocation for no less than twenty-four months
14 nor more than three years of license and
15 privilege to operate a vehicle during the
16 revocation period and installation during the
17 revocation period of an ignition interlock device
18 on any vehicle operated by the person;
- 19 (B) Either one of the following:
- 20 (i) No less than two hundred forty hours of
21 community service work; or



- 1 (ii) No less than five days but no more than
- 2 thirty days of imprisonment, of which at
- 3 least forty-eight hours shall be served
- 4 consecutively;

- 5 (C) A fine of no less than \$1,000 but no more than
- 6 \$3,000 [↗] to be deposited into the state drug and
- 7 alcohol toxicology testing laboratory special
- 8 fund;

- 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 (3) In addition to a sentence imposed under paragraphs (1)
- 15 and (2), any person eighteen years of age or older who
- 16 is convicted under this section and who operated a
- 17 vehicle with a passenger, in or on the vehicle, who
- 18 was younger than fifteen years of age, shall be
- 19 sentenced to an additional mandatory fine of \$500 and
- 20 an additional mandatory term of imprisonment of forty-
- 21 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) or (2), as
4 applicable. Notwithstanding paragraphs (1) and (2),
5 the revocation period for a person sentenced under
6 this paragraph shall be no less than two years; and
7 (4) If the person demonstrates to the court that the
8 person:
9 (A) Does not own or have the use of a vehicle in
10 which the person can install an ignition
11 interlock device during the revocation period; or
12 (B) Is otherwise unable to drive during the
13 revocation period,
14 the person shall be absolutely prohibited from driving
15 during the period of applicable revocation provided in
16 paragraphs (1) to (3); provided that the court shall
17 not issue an ignition interlock permit pursuant to
18 subsection (i) and the person shall be subject to the
19 penalties provided by section 291E-62 if the person
20 drives during the applicable revocation period."



1 SECTION 3. Section 291E-61.5, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) For a conviction under this section, the sentence
4 shall be either:

5 (1) An indeterminate term of imprisonment of five years;
6 or

7 (2) A term of probation of five years, with conditions to
8 include:

9 (A) Mandatory revocation of license and privilege to
10 operate a vehicle for a period no less than three
11 years but no more than five years;

12 (B) No less than ten days imprisonment, of which at
13 least forty-eight hours shall be served
14 consecutively;

15 (C) A fine of no less than \$2,000 but no more than
16 \$5,000 [7] to be deposited into the state drug and
17 alcohol toxicology testing laboratory special
18 fund;

19 (D) Referral to a certified substance abuse counselor
20 as provided in section 291E-61(d);



- 1 (E) A surcharge of \$25 to be deposited into the
- 2 neurotrauma special fund; and
- 3 (F) May be charged a surcharge of up to \$50 to be
- 4 deposited into the trauma system special fund if
- 5 the court so orders.

6 In addition to the foregoing, any vehicle owned and operated by
 7 the person committing the offense shall be subject to forfeiture
 8 pursuant to chapter 712A; provided that the department of
 9 transportation shall provide storage for vehicles forfeited
 10 under this subsection."

11 SECTION 4. Section 291E-62, Hawaii Revised Statutes, is
 12 amended by amending subsection (c) to read as follows:

13 "(c) Any person convicted of violating this section shall
 14 be sentenced as follows without possibility of probation or
 15 suspension of sentence:

- 16 (1) For a first offense, or any offense not preceded
- 17 within a five-year period by conviction for an offense
- 18 under this section, section 291E-66, or section
- 19 291-4.5 as that section was in effect on December 31,
- 20 2001:



- 1 (A) A term of imprisonment of not less than three
- 2 consecutive days but not more than thirty days;
- 3 (B) A fine of not less than \$250 but not more than
- 4 \$1,000 [↗] to be deposited into the state drug and
- 5 alcohol toxicology testing laboratory special
- 6 fund;
- 7 (C) Revocation of license and privilege to operate a
- 8 vehicle for an additional year; and
- 9 (D) Loss of the privilege to operate a vehicle
- 10 equipped with an ignition interlock device, if
- 11 applicable;
- 12 (2) For an offense that occurs within five years of a
- 13 prior conviction for an offense under this section,
- 14 section 291E-66, or section 291-4.5 as that section
- 15 was in effect on December 31, 2001:
- 16 (A) Thirty days imprisonment;
- 17 (B) A \$1,000 fine [↗] to be deposited into the state
- 18 drug and alcohol toxicology testing laboratory
- 19 special fund;
- 20 (C) Revocation of license and privilege to operate a
- 21 vehicle for an additional two years; and



- 1 (D) Loss of the privilege to operate a vehicle
- 2 equipped with an ignition interlock device, if
- 3 applicable; and
- 4 (3) For an offense that occurs within five years of two or
- 5 more prior convictions for offenses under this
- 6 section, section 291E-66, or section 291-4.5 as that
- 7 section was in effect on December 31, 2001, or any
- 8 combination thereof:
- 9 (A) One year imprisonment;
- 10 (B) A \$2,000 fine[?] to be deposited into the state
- 11 drug and alcohol toxicology testing laboratory
- 12 special fund;
- 13 (C) Permanent revocation of the person's license and
- 14 privilege to operate a vehicle; and
- 15 (D) Loss of the privilege to operate a vehicle
- 16 equipped with an ignition interlock device, if
- 17 applicable."

18 SECTION 5. Statutory material to be repealed is bracketed
 19 and stricken. New statutory material is underscored.

20 SECTION 6. This Act shall take effect upon its approval.



Report Title:

Operating a Vehicle Under the Influence of an Intoxicant; Repeat Offenders; Habitual Offenders; Operating a Vehicle After License Suspended or Revoked for Operating a Vehicle Under the Influence of an Intoxicant; State Drug and Alcohol Toxicology Testing Laboratory Special Fund

Description:

Deposits fines for repeat offenders, habitual offenders, and offenders who operate a vehicle after license and privilege have been suspended or revoked for operating a vehicle under the influence of an intoxicant into a state drug and alcohol toxicology testing laboratory special fund to be administered by the Department of Health. (SD1)

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