

JAN 17 2020

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. Section 291E-7, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:
3 "(a) In addition to any other civil penalties ordered by
4 the court, a person who violates any offense under this part may
5 be ordered to pay a trauma system surcharge, provided that:
6 (1) The maximum of which may be \$10 if the violator is not
7 already required to pay a trauma system surcharge
8 pursuant to the violation of the offense;
9 (2) The maximum of which may be [~~\$25~~] _____ if the
10 violation is an offense under section 291E-61(a)(1),
11 291E-61(a)(3), or 291E-61(a)(4);
12 (3) The maximum of which may be [~~\$50~~] _____ if the
13 violation is an offense under section 291E-61(a)(2) or
14 291E-61.5 or if the offense under section 291E-
15 61(a)(3) or 291E-61(a)(4) is a second or subsequent



1 offense that occurred within five years of the first
2 offense."

3 SECTION 2. Section 291E-61, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (b) to read:

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

10 (1) For the first offense, or any offense not preceded
11 within a [~~ten-year~~] _____-year period by a conviction
12 for an offense under this section or section
13 291E-4 (a) :

14 (A) A fourteen-hour minimum substance abuse
15 rehabilitation program, including education and
16 counseling, or other comparable program deemed
17 appropriate by the court;

18 (B) [~~One-year~~] _____-year revocation of license and
19 privilege to operate a vehicle during the
20 revocation period and installation during the



1 revocation period of an ignition interlock device
2 on any vehicle operated by the person;

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

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

5 (ii) No less than forty-eight hours and no more
6 than five days of imprisonment; or

7 (iii) A fine of no less than \$250 but no more than
8 \$1,000;

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

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

14 (2) For an offense that occurs within [~~ten~~] _____ years of
15 a prior conviction for an offense under this section
16 or section 291E-4(a):

17 (A) Revocation for no less than [~~twenty-four~~] _____
18 months nor more than [~~three~~] _____ years of
19 license and privilege to operate a vehicle during
20 the revocation period and installation during the



1 revocation period of an ignition interlock device
2 on any vehicle operated by the person;

3 (B) Either one of the following:

4 (i) No less than [~~two hundred forty~~] _____ hours
5 of community service work; or

6 (ii) No less than [~~five~~] _____ days but no more
7 than thirty days of imprisonment, of which
8 at least forty-eight hours shall be served
9 consecutively;

10 (C) A fine of no less than [~~\$1,000~~] \$ _____ but
11 no more than [~~\$3,000~~] \$ _____ ;

12 (D) A surcharge of [~~\$25~~] \$ _____ to be deposited
13 into the neurotrauma special fund; and

14 (E) A surcharge of up to [~~\$50~~] \$ _____ , if the
15 court so orders, to be deposited into the trauma
16 system special fund;

17 (3) For an offense committed by a highly intoxicated
18 operator under this section or section 291E-4(a):

19 (A) Revocation for no less than _____ months nor more
20 than _____ years of license and privilege to
21 operate a vehicle during the revocation period



1 and installation during the revocation period of
2 an ignition interlock device on any vehicle
3 operated by the person;

4 (B) Either one of the following:

5 (i) No less than hours of community
6 service work; or

7 (ii) No less than days but no more than
8 days of imprisonment, of which at
9 least hours shall be served
10 consecutively;

11 (C) A fine of no less than \$ but no more
12 than \$;

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

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

18 ~~(3)~~ (4) In addition to a sentence imposed under
19 paragraphs (1) ~~and~~, (2), and (3), any person
20 eighteen years of age or older who is convicted under
21 this section and who operated a vehicle with a



1 passenger, in or on the vehicle, who was younger than
 2 fifteen years of age, shall be sentenced to an
 3 additional mandatory fine of \$500 and an additional
 4 mandatory term of imprisonment of forty-eight hours;
 5 provided that the total term of imprisonment for a
 6 person convicted under this paragraph shall not exceed
 7 the maximum term of imprisonment provided in paragraph
 8 (1) ~~[and]~~, (2), or (3), as applicable.

9 Notwithstanding paragraphs (1) ~~[and]~~, (2), and (3),
 10 the revocation period for a person sentenced under
 11 this paragraph shall be no less than two years; and

12 ~~[(4)]~~ (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 ~~[(3)]~~ (4); provided that the court



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

6 2. By amending subsection (1) to read:

7 "(1) As used in this section [~~the term "examiner"]~~ :
 8 "Examiner of drivers" has the same meaning as provided in
 9 section 286-2.

10 "Highly intoxicated operator" means a person who operates
 11 or assumes actual physical control of a vehicle:

- 12 (1) With _____ or more grams of alcohol per two hundred
 13 ten liters of breath;
- 14 (2) With _____ or more grams of alcohol per one hundred
 15 milliliters or cubic centimeters of blood; or
- 16 (3) With the presence of _____ or more drugs in an amount
 17 that clearly impairs the person's ability to operate a
 18 vehicle in a careful and prudent manner."

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



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

3 (1) An indeterminate term of imprisonment of [~~five~~] _____
4 years; or

5 (2) A term of probation of [~~five~~] _____ years, with
6 conditions to include:

7 (A) Mandatory revocation of license and privilege to
8 operate a vehicle for a period no less than
9 [~~three~~] _____ years but no more than [~~five~~] _____
10 years;

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

14 (C) A fine of no less than [~~\$2,000~~] \$ _____ but
15 no more than [~~\$5,000,~~] \$ _____;

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

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



1 (F) May be charged a surcharge of up to \$50 to be
 2 deposited into the trauma system special fund if
 3 the court so orders.

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

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

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

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

19 (A) A term of imprisonment of not less than [~~three~~]
 20 _____ consecutive days but not more than [~~thirty~~]
 21 _____ days;



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



1 section was in effect on December 31, 2001, or any
2 combination thereof:

3 (A) [~~One~~] _____ year imprisonment;

4 (B) A [~~\$2,000~~] \$ _____ fine;

5 (C) Permanent revocation of the person's license and
6 privilege to operate a vehicle; and

7 (D) Loss of the privilege to operate a vehicle
8 equipped with an ignition interlock device, if
9 applicable."

10 SECTION 5. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

13 SECTION 6. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 7. This Act shall take effect upon its approval.

16

INTRODUCED BY

~~S.C. State House~~
Francis R. Payne
Michelle A. Tidani
[Handwritten signatures]



S.B. NO. 2330

Report Title:

Operating a Vehicle Under the Influence of an Intoxicant;
Penalty Increases

Description:

Establishes penalties for and defines "highly intoxicated operator". Increases license revocation periods and lookback periods for offenses of operating a vehicle under the influence of an intoxicant. Increases penalties for repeat offenders, habitual offenders, and persons driving on a suspended or revoked license for offenses of 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.

