



GOV. MSG. NO. 1161

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 23, 2021

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 23, 2021, the following bill was signed into law:

SB412 HD1 CD1

RELATING TO OPERATING A VEHICLE UNDER
THE INFLUENCE OF AN INTOXICANT
ACT 060 (21)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

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:

SECTION 1. Section 291E-15, Hawaii Revised Statutes, is
amended to read as follows:

"§291E-15 Refusal to submit to breath, blood, or urine
test; subject to administrative revocation proceedings. If a
person under arrest refuses to submit to a breath, blood, or
urine test, none shall be given, except as provided in
section 291E-21[-], or pursuant to a search warrant issued by a
judge upon a finding of probable cause supported by oath or
affirmation, or pursuant to any other basis permissible under
the Constitution of the State of Hawaii and laws of this State.

Upon the law enforcement officer's determination that the person
under arrest has refused to submit to a breath, blood, or urine
test, if applicable, then a law enforcement officer shall:

(1) Inform the person under arrest of the sanctions under
section 291E-41 or 291E-65; and

(2) Ask the person if the person still refuses to submit
to a breath, blood, or urine test, thereby subjecting



1 the person to the procedures and sanctions under
2 part III or section 291E-65, as applicable;
3 provided that if the law enforcement officer fails to comply
4 with paragraphs (1) and (2), the person shall not be subject to
5 the refusal sanctions under part III or IV."

6 SECTION 2. Section 853-4, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) This chapter shall not apply when:

9 (1) The offense charged involves the intentional, knowing,
10 reckless, or negligent killing of another person;

11 (2) The offense charged is:

12 (A) A felony that involves the intentional, knowing,
13 or reckless bodily injury, substantial bodily
14 injury, or serious bodily injury of another
15 person; or

16 (B) A misdemeanor or petty misdemeanor that carries a
17 mandatory minimum sentence and that involves the
18 intentional, knowing, or reckless bodily injury,
19 substantial bodily injury, or serious bodily
20 injury of another person;



1 provided that the prohibition in this paragraph shall
2 not apply to offenses described in
3 section 709-906(18);

4 (3) The offense charged involves a conspiracy or
5 solicitation to intentionally, knowingly, or
6 recklessly kill another person or to cause serious
7 bodily injury to another person;

8 (4) The offense charged is a class A felony;

9 (5) The offense charged is nonprobationable;

10 (6) The defendant has been convicted of any offense
11 defined as a felony by the Hawaii Penal Code or has
12 been convicted for any conduct that if perpetrated in
13 this State would be punishable as a felony;

14 (7) The defendant is found to be a law violator or
15 delinquent child for the commission of any offense
16 defined as a felony by the Hawaii Penal Code or for
17 any conduct that if perpetrated in this State would
18 constitute a felony;

19 (8) The defendant has a prior conviction for a felony
20 committed in any state, federal, or foreign
21 jurisdiction;



1 (9) A firearm was used in the commission of the offense
2 charged;

3 (10) The defendant is charged with the distribution of a
4 dangerous, harmful, or detrimental drug to a minor;

5 (11) The defendant has been charged with a felony offense
6 and has been previously granted deferred acceptance of
7 guilty plea or no contest plea for a prior offense,
8 regardless of whether the period of deferral has
9 already expired;

10 (12) The defendant has been charged with a misdemeanor
11 offense and has been previously granted deferred
12 acceptance of guilty plea or no contest plea for a
13 prior felony, misdemeanor, or petty misdemeanor for
14 which the period of deferral has not yet expired;

15 (13) The offense charged is:

16 (A) Escape in the first degree;

17 (B) Escape in the second degree;

18 (C) Promoting prison contraband in the first degree;

19 (D) Promoting prison contraband in the second degree;

20 (E) Bail jumping in the first degree;

21 (F) Bail jumping in the second degree;



- 1 (G) Bribery;
- 2 (H) Bribery of or by a witness;
- 3 (I) Intimidating a witness;
- 4 (J) Bribery of or by a juror;
- 5 (K) Intimidating a juror;
- 6 (L) Jury tampering;
- 7 (M) Promoting prostitution;
- 8 (N) Abuse of family or household member except as
- 9 provided in paragraph (2) and
- 10 section 709-906(18);
- 11 (O) Sexual assault in the second degree;
- 12 (P) Sexual assault in the third degree;
- 13 (Q) A violation of an order issued pursuant to
- 14 chapter 586;
- 15 (R) Promoting child abuse in the second degree;
- 16 (S) Promoting child abuse in the third degree;
- 17 (T) Electronic enticement of a child in the first
- 18 degree;
- 19 (U) Electronic enticement of a child in the second
- 20 degree;
- 21 (V) Prostitution pursuant to section 712-1200(1)(b);



(W) Street solicitation of prostitution under
section 712-1207(1) (b);

(X) Solicitation of prostitution near schools or
public parks under section 712-1209;

(Y) Habitual solicitation of prostitution under
section 712-1209.5; ~~[or]~~

(Z) Solicitation of a minor for prostitution under
section 712-1209.1; or

(AA) Habitually operating a vehicle under the
influence of an intoxicant under
section 291E-61.5(a);

(14) The defendant has been charged with:

(A) Knowingly or intentionally falsifying any report
required under chapter 11, part XIII with the
intent to circumvent the law or deceive the
campaign spending commission; or

(B) Violating section 11-352 or 11-353; or

(15) The defendant holds a commercial driver's license and
has been charged with violating a traffic control law,
other than a parking law, in connection with the
operation of any type of motor vehicle."



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

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

APPROVED this 23 day of JUN , 2021

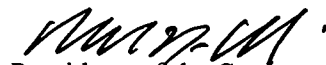



GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAI‘I

Date: April 27, 2021
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate
of the Thirty-First Legislature of the State of Hawai‘i, Regular Session of 2021.


President of the Senate


Clerk of the Senate

SB No. 412, HD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 27, 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives