



GOV. MSG. NO. 1324

EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

July 6, 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 July 6, 2021, the following bill was signed into law:

HB0334 HD1 SD2 CD1

RELATING TO OPERATING A VEHICLE UNDER  
THE INFLUENCE OF AN INTOXICANT.  
**ACT 196 (21)**

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

ORIGINAL

Approved by the Governor

on JUL 06 2021

HOUSE OF REPRESENTATIVES  
THIRTY-FIRST LEGISLATURE, 2021  
STATE OF HAWAII

ACT 196

H.B. NO. 334  
H.D. 1  
S.D. 2  
C.D. 1

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## 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. The legislature finds that highway safety in  
2 Hawaii is compromised by drunk and drugged drivers who continue  
3 to jeopardize the safety of all road users. The police continue  
4 their efforts to make our roads safer by arresting those  
5 individuals suspected of driving while impaired. However,  
6 prosecuting these cases can be hampered by test results  
7 frequently not being available in time for the respective  
8 hearings, as well as by expensive court costs.

9           The legislature notes that presently, testing of blood and  
10 urine samples obtained for the purpose of prosecuting cases  
11 involving the operation of a motor vehicle under the influence  
12 of an intoxicant is performed by private laboratories, with the  
13 exception of alcohol blood testing within the city and county of  
14 Honolulu. The drug and alcohol testing performed by private  
15 laboratories is costly.



1           The legislature also finds that testing performed by  
2 out-of-state private laboratories takes time to complete.  
3 Instances have occurred in which test results were not timely  
4 provided for trial, and cases were dismissed as a result. Court  
5 cases involving drunk or drugged driving can become extremely  
6 costly when the prosecution subpoenas experts and lab personnel  
7 to testify, especially if these witnesses are from private  
8 laboratories located out-of-state.

9           The legislature recognizes that other states have found  
10 that costs for drunk and drugged driving cases are greatly  
11 reduced when state-run laboratories perform the testing and  
12 confirmations that will be used in court. Some of these  
13 state-run laboratories perform other testing functions such as  
14 workplace drug testing, post-mortem drug testing, and testing of  
15 inmates and parolees. These types of testing functions can  
16 further reduce costs for those states.

17           The legislature further finds that having an in-state drug  
18 and alcohol toxicology testing laboratory would be part of a  
19 multi-pronged approach to addressing impaired driving on our  
20 roadways. This dangerous and one hundred per cent preventable



1 driving behavior can be further curbed with strict enforcement  
2 by our law enforcement officers, public education, and training.

3 The purpose of this Act is to:

- 4 (1) Establish the state drug and alcohol toxicology  
5 testing laboratory special fund to support a state  
6 drug and alcohol toxicology testing laboratory;
- 7 (2) Specify that moneys in the state highway fund may be  
8 expended for the cost of establishing a state drug and  
9 alcohol toxicology testing laboratory;
- 10 (3) Require that fines imposed on offenders convicted of  
11 repeat or habitual offenses involving operating a  
12 vehicle under the influence of an intoxicant or  
13 convicted of operating a vehicle after a license and  
14 privilege have been suspended or revoked for operating  
15 a vehicle under the influence of an intoxicant be  
16 deposited into the state drug and alcohol toxicology  
17 testing laboratory special fund; and
- 18 (4) Require the department of health to submit reports to  
19 the legislature on expenditures from the state drug  
20 and alcohol toxicology testing laboratory special  
21 fund.



1 SECTION 2. 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- State drug and alcohol toxicology testing  
5 laboratory special fund; established. (a) There is established  
6 in the state treasury a state drug and alcohol toxicology  
7 testing laboratory special fund, into which shall be deposited:

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

15 (b) Moneys in the state drug and alcohol toxicology  
16 testing laboratory special fund shall be administered and  
17 expended by the department of health to support a state drug and  
18 alcohol toxicology testing laboratory."

19 SECTION 3. Section 248-9, Hawaii Revised Statutes, is  
20 amended by amending subsection (a) to read as follows:



1           "(a) Moneys in the state highway fund may be expended for  
2 the following purposes:

3           (1) To pay the costs of operation, maintenance, and repair  
4 of the state highway system, including without  
5 limitation, the cost of equipment and general  
6 administrative overhead;

7           (2) To pay the costs of acquisition [~~including~~],  
8 including real property and interests therein[~~;~~];  
9 planning[~~;~~]; designing[~~;~~]; construction[~~;~~]; and  
10 reconstruction of the state highway system and  
11 bikeways, including[~~;~~] without limitation, the cost of  
12 equipment and general administrative overhead;

13           (3) To reimburse the general fund for interest on and  
14 principal of general obligation bonds issued to  
15 finance highway projects where the bonds are  
16 designated to be reimbursable out of the state highway  
17 fund; [~~and~~]

18           (4) To pay the costs of construction, maintenance, and  
19 repair of county roads; provided that none of the  
20 funds expended on a county road or program shall be  
21 federal funds when [~~such~~] expenditure would cause a



1 violation of federal law or a federal grant  
 2 agreement[-]; and  
 3 (5) To pay the cost of establishing a state drug and  
 4 alcohol toxicology testing laboratory that is intended  
 5 to support the prosecution of offenses relating to  
 6 operation of a motor vehicle while under the influence  
 7 of an intoxicant."

8 SECTION 4. Section 291E-61, Hawaii Revised Statutes, is  
 9 amended by amending subsection (b) to read as follows:

10 "(b) A person committing the offense of operating a  
 11 vehicle under the influence of an intoxicant shall be sentenced  
 12 without possibility of probation or suspension of sentence as  
 13 follows:

14 (1) For the first offense, or any offense not preceded  
 15 within a ten-year period by a conviction for an  
 16 offense under this section or section 291E-4(a):

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



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



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

5 (B) Either one of the following:

6 (i) No less than two hundred forty hours of  
7 community service work; or

8 (ii) No less than five days but no more than  
9 thirty days of imprisonment, of which at  
10 least forty-eight hours shall be served  
11 consecutively;

12 (C) A fine of no less than \$1,000 but no more than  
13 \$3,000[+], to be deposited into the state drug  
14 and alcohol toxicology testing laboratory special  
15 fund;

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

18 (E) A surcharge of up to \$50, if the court so orders,  
19 to be deposited into the trauma system special  
20 fund;



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



1 the person shall be absolutely prohibited from driving  
2 during the period of applicable revocation provided in  
3 paragraphs (1) to (3); provided that the court shall  
4 not issue an ignition interlock permit pursuant to  
5 subsection (i) and the person shall be subject to the  
6 penalties provided by section 291E-62 if the person  
7 drives during the applicable revocation period."

8 SECTION 5. Section 291E-61.5, Hawaii Revised Statutes, is  
9 amended by amending subsection (c) to read as follows:

10 "(c) For a conviction under this section, the sentence  
11 shall be either:

12 (1) An indeterminate term of imprisonment of five years;  
13 or

14 (2) A term of probation of five years, with conditions to  
15 include:

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

19 (B) No less than ten days imprisonment, of which at  
20 least forty-eight hours shall be served  
21 consecutively;



- 1 (C) A fine of no less than \$2,000 but no more than
- 2 \$5,000[?], to be deposited into the state drug
- 3 and alcohol toxicology testing laboratory special
- 4 fund;
- 5 (D) Referral to a certified substance abuse counselor
- 6 as provided in subsection (d);
- 7 (E) A surcharge of \$25 to be deposited into the
- 8 neurotrauma special fund; and
- 9 (F) [~~May be charged a~~] A surcharge of up to \$50 to be
- 10 deposited into the trauma system special fund if
- 11 the court so orders.

12 In addition to the foregoing, any vehicle owned and operated by  
 13 the person committing the offense shall be subject to forfeiture  
 14 pursuant to chapter 712A; provided that the department of  
 15 transportation shall provide storage for vehicles forfeited  
 16 under this subsection."

17 SECTION 6. Section 291E-62, Hawaii Revised Statutes, is  
 18 amended by amending subsection (c) to read as follows:

19 "(c) Any person convicted of violating this section shall  
 20 be sentenced as follows without possibility of probation or  
 21 suspension of sentence:



- 1 (1) For a first offense, or any offense not preceded  
2 within a five-year period by conviction for an offense  
3 under this section, section 291E-66, or  
4 section 291-4.5 as that section was in effect on  
5 December 31, 2001:
- 6 (A) A term of imprisonment of [~~not~~] no less than  
7 three consecutive days but [~~not~~] no more than  
8 thirty days;
- 9 (B) A fine of [~~not~~] no less than \$250 but [~~not~~] no  
10 more than \$1,000[+], to be deposited into the  
11 state drug and alcohol toxicology testing  
12 laboratory special fund;
- 13 (C) Revocation of license and privilege to operate a  
14 vehicle for an additional year; and
- 15 (D) Loss of the privilege to operate a vehicle  
16 equipped with an ignition interlock device, if  
17 applicable;
- 18 (2) For an offense that occurs within five years of a  
19 prior conviction for an offense under this section,  
20 section 291E-66, or section 291-4.5 as that section  
21 was in effect on December 31, 2001:



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



1 (D) Loss of the privilege to operate a vehicle  
2 equipped with an ignition interlock device, if  
3 applicable."

4 SECTION 7. Section 706-643, Hawaii Revised Statutes, is  
5 amended by amending subsection (2) to read as follows:

6 "(2) All fines and other final payments received by a  
7 clerk or other officer of a court shall be accounted for, with  
8 the names of persons making payment, and the amount and date  
9 thereof, being recorded. All such funds shall be deposited with  
10 the director of finance to the credit of the general fund of the  
11 State. With respect to fines and bail forfeitures that are  
12 proceeds of the wildlife revolving fund under  
13 section 183D-10.5[7]; fines that are proceeds of the state drug  
14 and alcohol toxicology testing laboratory special fund under  
15 sections 291E-61(b) (2) (C), 291E-61.5(c) (2) (C), and 291E-62(c);  
16 and fines that are proceeds of the compliance resolution fund  
17 under sections 26-9(o) and 431:2-410, the director of finance  
18 shall transmit the fines and forfeitures to the respective  
19 funds."

20 SECTION 8. No later than thirty days prior to the  
21 convening of each of the regular sessions of 2023 and 2024, the



1 department of health shall submit a report to the legislature on  
2 the expenditures made from the state drug and alcohol toxicology  
3 testing laboratory special fund, including the amounts expended  
4 and the purpose of each expenditure as it relates to supporting  
5 the state drug and alcohol toxicology testing laboratory.

6 SECTION 9. The state drug and alcohol toxicology testing  
7 laboratory special fund established in section 291E- , Hawaii  
8 Revised Statutes, shall be abolished and repealed on June 30,  
9 2026, and any unencumbered remaining balances shall lapse to the  
10 general fund.

11 SECTION 10. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 11. This Act shall take effect on July 1, 2021;  
14 provided that on June 30, 2026, sections 4, 5, 6, and 7 of this  
15 Act shall be repealed and section 291E-61, 291E-61.5, 291E-62,  
16 and 706-643, Hawaii Revised Statutes, shall be reenacted in the  
17 form in which it read on the day before the effective date of  
18 this Act.

APPROVED this 06 day of JUL , 2021



GOVERNOR OF THE STATE OF HAWAII



HB No. 334, HD 1, SD 2, 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

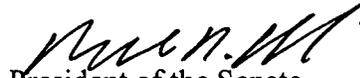


Brian L. Takeshita  
Chief Clerk  
House of Representatives

**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