
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. Prosecuting
6 these cases can be hampered by test results frequently not being
7 available in time for the respective hearings, as well as by
8 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. This drug and alcohol testing performed by private
15 laboratories is costly.



1 The legislature also finds that testing performed by out-
2 of-state private laboratories takes time to complete. Instances
3 have occurred in which test results were not timely provided for
4 trial, and cases were dismissed as a result. Court cases
5 involving drunk or drugged driving can become extremely costly
6 when the prosecution subpoenas experts and lab personnel to
7 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 state-
13 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 the
6 establishment, operation, management, and maintenance
7 of an accredited state drug and alcohol toxicology
8 testing laboratory;

9 (2) Specify that moneys in the state highway fund may be
10 expended for the cost of establishing a state drug and
11 alcohol toxicology testing laboratory;

12 (3) Require that fines imposed on offenders convicted of
13 repeat or habitual offenses involving operating a
14 vehicle under the influence of an intoxicant or
15 convicted of operating a vehicle after a license and
16 privilege have been suspended or revoked for operating
17 a vehicle under the influence of an intoxicant be
18 deposited into the state drug and alcohol toxicology
19 testing laboratory special fund; and



1 (4) Appropriate moneys, to be expended by the department
2 of health, for the establishment of a state drug and
3 alcohol toxicology testing laboratory.

4 SECTION 2. Chapter 291E, Hawaii Revised Statutes, is
5 amended by adding a new section to part I to be appropriately
6 designated and to read as follows:

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

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

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



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

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

5 (1) To pay the costs of operation, maintenance, and repair
6 of the state highway system, including without
7 limitation, the cost of equipment and general
8 administrative overhead[+] and the cost of
9 establishing a state drug and alcohol toxicology
10 testing laboratory that is intended to support the
11 prosecution of offenses relating to operation of a
12 motor vehicle while under the influence of an
13 intoxicant;

14 (2) To pay the costs of acquisition (including real
15 property and interests therein), planning, designing,
16 construction, and reconstruction of the state highway
17 system and bikeways, including, without limitation,
18 the cost of equipment and general administrative
19 overhead;



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1 (3) To reimburse the general fund for interest on and
2 principal of general obligation bonds issued to
3 finance highway projects where the bonds are
4 designated to be reimbursable out of the state highway
5 fund; and

6 (4) To pay the costs of construction, maintenance, and
7 repair of county roads; provided that none of the
8 funds expended on a county road or program shall be
9 federal funds when such expenditure would cause a
10 violation of federal law or a federal grant
11 agreement."

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

14 "(b) A person committing the offense of operating a
15 vehicle under the influence of an intoxicant shall be sentenced
16 without possibility of probation or suspension of sentence as
17 follows:

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



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- 1 (A) A fourteen-hour minimum substance abuse
2 rehabilitation program, including education and
3 counseling, or other comparable program deemed
4 appropriate by the court;
- 5 (B) One-year revocation of license and privilege to
6 operate a vehicle during the revocation period
7 and installation during the revocation period of
8 an ignition interlock device on any vehicle
9 operated by the person;
- 10 (C) Any one or more of the following:
- 11 (i) Seventy-two hours of community service work;
- 12 (ii) No less than forty-eight hours and no more
13 than five days of imprisonment; or
- 14 (iii) A fine of no less than \$250 but no more than
15 \$1,000;
- 16 (D) A surcharge of \$25 to be deposited into the
17 neurotrauma special fund; and
- 18 (E) A surcharge, if the court so orders, of up to \$25
19 to be deposited into the trauma system special
20 fund;



- 1 (2) For an offense that occurs within ten years of a prior
2 conviction for an offense under this section or
3 section 291E-4(a):
- 4 (A) Revocation for no less than twenty-four months
5 nor more than three years of license and
6 privilege to operate a vehicle during the
7 revocation period and installation during the
8 revocation period of an ignition interlock device
9 on any vehicle operated by the person;
- 10 (B) Either one of the following:
- 11 (i) No less than two hundred forty hours of
12 community service work; or
- 13 (ii) No less than five days but no more than
14 thirty days of imprisonment, of which at
15 least forty-eight hours shall be served
16 consecutively;
- 17 (C) A fine of no less than \$1,000 but no more than
18 \$3,000 [7], to be deposited into the state drug
19 and alcohol toxicology testing laboratory special
20 fund;



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- 1 (D) A surcharge of \$25 to be deposited into the
2 neurotrauma special fund; and
- 3 (E) A surcharge of up to \$50, if the court so orders,
4 to be deposited into the trauma system special
5 fund;
- 6 (3) In addition to a sentence imposed under paragraphs (1)
7 and (2), any person eighteen years of age or older who
8 is convicted under this section and who operated a
9 vehicle with a passenger, in or on the vehicle, who
10 was younger than fifteen years of age, shall be
11 sentenced to an additional mandatory fine of \$500 and
12 an additional mandatory term of imprisonment of forty-
13 eight hours; provided that the total term of
14 imprisonment for a person convicted under this
15 paragraph shall not exceed the maximum term of
16 imprisonment provided in paragraph (1) or (2), as
17 applicable. Notwithstanding paragraphs (1) and (2),
18 the revocation period for a person sentenced under
19 this paragraph shall be no less than two years; and



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1 (4) If the person demonstrates to the court that the
2 person:
3 (A) Does not own or have the use of a vehicle in
4 which the person can install an ignition
5 interlock device during the revocation period; or
6 (B) Is otherwise unable to drive during the
7 revocation period,
8 the person shall be absolutely prohibited from driving
9 during the period of applicable revocation provided in
10 paragraphs (1) to (3); provided that the court shall
11 not issue an ignition interlock permit pursuant to
12 subsection (i) and the person shall be subject to the
13 penalties provided by section 291E-62 if the person
14 drives during the applicable revocation period."

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

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

19 (1) An indeterminate term of imprisonment of five years;
20 or



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- 1 (2) A term of probation of five years, with conditions to
2 include:
- 3 (A) Mandatory revocation of license and privilege to
4 operate a vehicle for a period no less than three
5 years but no more than five years;
- 6 (B) No less than ten days imprisonment, of which at
7 least forty-eight hours shall be served
8 consecutively;
- 9 (C) A fine of no less than \$2,000 but no more than
10 \$5,000 [±], to be deposited into the state drug
11 and alcohol toxicology testing laboratory special
12 fund;
- 13 (D) Referral to a certified substance abuse counselor
14 as provided in subsection (d);
- 15 (E) A surcharge of \$25 to be deposited into the
16 neurotrauma special fund; and
- 17 (F) May be charged a surcharge of up to \$50 to be
18 deposited into the trauma system special fund if
19 the court so orders.



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

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

8 "(c) Any person convicted of violating this section shall
9 be sentenced as follows without possibility of probation or
10 suspension of sentence:

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

16 (A) A term of imprisonment of not less than three
17 consecutive days but not more than thirty days;

18 (B) A fine of not less than \$250 but not more than
19 \$1,000[+], to be deposited into the state drug



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- 1 and alcohol toxicology testing laboratory special
2 fund;
- 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 of a
9 prior conviction for an offense under this section,
10 section 291E-66, or section 291-4.5 as that section
11 was in effect on December 31, 2001:
- 12 (A) Thirty days imprisonment;
- 13 (B) A \$1,000 fine[+], to be deposited into the state
14 drug and alcohol toxicology testing laboratory
15 special fund;
- 16 (C) Revocation of license and privilege to operate a
17 vehicle for an additional two years; and
- 18 (D) Loss of the privilege to operate a vehicle
19 equipped with an ignition interlock device, if
20 applicable; and



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

15 SECTION 7. There is appropriated out of the state highway
16 fund the sum of \$2,000,000 or so much thereof as may be
17 necessary for fiscal year 2021-2022 for deposit into the state
18 drug and alcohol toxicology testing laboratory special fund
19 established by section 2 of this Act.



1 SECTION 8. There is appropriated out of the state drug and
2 alcohol toxicology testing laboratory special fund the sum of
3 \$2,000,000 or so much thereof as may be necessary for fiscal
4 year 2021-2022 for the establishment of a state drug and alcohol
5 toxicology testing laboratory, including the costs of laboratory
6 instrumentation, facility renovation and security upgrades,
7 office furniture and supplies, laboratory equipment, and other
8 purposes that support a state drug and alcohol toxicology
9 testing laboratory.

10 The sum appropriated shall be expended by the department of
11 health for the purposes of this Act; provided that the funds
12 appropriated shall not lapse at the end of the fiscal year for
13 which it was appropriated, but any unencumbered funds remaining
14 shall lapse on June 30, 2023, to the credit of the state highway
15 fund.

16 SECTION 9. No later than thirty days prior to the
17 convening of each of the regular sessions of 2023 and 2024, the
18 department of health shall submit a report on the expenditures
19 made from the state drug and alcohol toxicology testing
20 laboratory special fund, including the amounts expended and the



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1 purpose of each expenditure as it relates to supporting the
2 state drug and alcohol toxicology testing laboratory.

3 SECTION 10. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 11. This Act shall take effect on July 1, 2021.

6

INTRODUCED BY: _____



By Request

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Report Title:

OVUII; Repeat Offenders; Habitual Offenders; Operating a Vehicle After License Suspended or Revoked for OVUII; DOH; State Drug and Alcohol Toxicology Testing Laboratory; Special Fund; Appropriation

Description:

Establishes a state drug and alcohol toxicology testing laboratory special fund, to be administered by the department of health. Deposits into the special fund fines imposed on offenders convicted of certain offenses involving operation of a vehicle under the influence of an intoxicant. Appropriates moneys. Requires expenditure reports to the legislature.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

