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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. 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. 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



1 and alcohol toxicology testing laboratory special  
2 fund.

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

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

- 10 (1) All fines collected pursuant to  
11 sections 291E-61(b) (2) (C), 291E-61.5(c) (2) (C),  
12 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;

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

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



1 (4) To pay the costs of construction, maintenance, and  
 2 repair of county roads; provided that none of the  
 3 funds expended on a county road or program shall be  
 4 federal funds when [~~such~~] expenditure would cause a  
 5 violation of federal law or a federal grant  
 6 agreement[~~-~~]; and

7 (5) To pay the cost of establishing a state drug and  
 8 alcohol toxicology testing laboratory that is intended  
 9 to support the prosecution of offenses relating to  
 10 operation of a motor vehicle while under the influence  
 11 of an intoxicant."

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):



- 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[+], to be deposited into the state drug  
19 and alcohol toxicology testing laboratory special  
20 fund;



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



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



- 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~~] 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  
14 section 291-4.5 as that section was in effect on  
15 December 31, 2001:

16 (A) A term of imprisonment of [~~not~~] no less than  
17 three consecutive days but [~~not~~] no more than  
18 thirty days;

19 (B) A fine of [~~not~~] no less than \$250 but [~~not~~] no  
20 more than \$1,000[+], to be deposited into the



- 1                   state drug and alcohol toxicology testing
- 2                   laboratory special 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. Section 706-643, Hawaii Revised Statutes, is  
16 amended by amending subsection (2) to read as follows:

17 "(2) All fines and other final payments received by a  
18 clerk or other officer of a court shall be accounted for, with  
19 the names of persons making payment, and the amount and date  
20 thereof, being recorded. All such funds shall be deposited with



1 the director of finance to the credit of the general fund of the  
2 State. With respect to fines and bail forfeitures that are  
3 proceeds of the wildlife revolving fund under  
4 section 183D-10.5[7]; fines that are proceeds of the state drug  
5 and alcohol toxicology testing laboratory special fund under  
6 sections 291E-61(b)(2)(C), 291E-61.5(c)(2)(C), and 291E-62(c);  
7 and fines that are proceeds of the compliance resolution fund  
8 under sections 26-9(o) and 431:2-410, the director of finance  
9 shall transmit the fines and forfeitures to the respective  
10 funds."

11 SECTION 8. No later than thirty days prior to the  
12 convening of each of the regular sessions of 2023 and 2024, the  
13 department of health shall submit a report on the expenditures  
14 made from the state drug and alcohol toxicology testing  
15 laboratory special fund, including the amounts expended and the  
16 purpose of each expenditure as it relates to supporting the  
17 state drug and alcohol toxicology testing laboratory.

18 SECTION 9. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 10. This Act shall take effect on July 1, 2021.



**Report Title:**

OVUIII Offenses; DOH; State Drug and Alcohol Toxicology Testing Laboratory; Special Fund

**Description:**

Establishes a state drug and alcohol toxicology testing laboratory special fund, to be administered by DOH. Deposits into the special fund fines imposed on offenders convicted of certain offenses involving operation of a vehicle under the influence of an intoxicant. Requires expenditure reports to the legislature. (HD1)

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

