



GOV. MSG. NO. 1194

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

JUN 17 2022

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 **JUN 17 2022**, the following bill was signed into law:

SB3165 SD2 HD1 CD1

RELATING TO OPERATING A VEHICLE UNDER
THE INFLUENCE OF AN INTOXICANT.
ACT 094

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:

1 SECTION 1. Section 291E-61, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

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

7 (1) Except as provided in paragraph (4), for the first
8 offense, or any offense not preceded within a ten-year
9 period by a conviction for an offense under this
10 section or section 291E-4(a):

11 (A) A fourteen-hour minimum substance abuse
12 rehabilitation program, including education and
13 counseling, or other comparable ~~[program]~~
14 programs deemed appropriate by the court;

15 (B) ~~[One-year revocation]~~ Revocation of license to
16 operate a vehicle~~[+]~~ for no less than one year
17 and no more than eighteen months;



- 1 (C) Installation during the revocation period of an
2 ignition interlock device on all vehicles
3 operated by the person;
- 4 (D) Any one or more of the following:
- 5 (i) Seventy-two hours of community service work;
6 (ii) No less than forty-eight hours and no more
7 than five days of imprisonment; or
8 (iii) A fine of no less than \$250 [~~but~~] and no
9 more than \$1,000;
- 10 (E) A surcharge of \$25 to be deposited into the
11 neurotrauma special fund; and
- 12 (F) A surcharge, if the court so orders, of up to \$25
13 to be deposited into the trauma system special
14 fund;
- 15 (2) For an offense that occurs within ten years of a prior
16 conviction for an offense under this section:
- 17 (A) A substance abuse program of at least thirty-six
18 hours, including education and counseling, or
19 other comparable programs deemed appropriate by
20 the court;



- 1 (B) Revocation of license to operate a vehicle for no
2 less than two years [~~but~~] and no more than three
3 years;
- 4 (C) Installation during the revocation period of an
5 ignition interlock device on all vehicles
6 operated by the person;
- 7 (D) Either one of the following:
- 8 (i) No less than two hundred forty hours of
9 community service work; or
- 10 (ii) No less than five days [~~but~~] and no more
11 than thirty days of imprisonment, of which
12 at least forty-eight hours shall be served
13 consecutively;
- 14 (E) A fine of no less than \$1,000 [~~but~~] and no more
15 than \$3,000, to be deposited into the state drug
16 and alcohol toxicology testing laboratory special
17 fund;
- 18 (F) A surcharge of \$25 to be deposited into the
19 neurotrauma special fund; and



1 (G) A surcharge of up to \$50, if the court so orders,
2 to be deposited into the trauma system special
3 fund;

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

18 (4) In addition to a sentence imposed under paragraph (1),
19 for a first offense under this section, or an offense
20 not preceded within a ten-year period by a conviction
21 for an offense, any person who is convicted under this



1 section and was a highly intoxicated driver at the
2 time of the subject incident shall be sentenced to an
3 additional mandatory term of imprisonment for forty-
4 eight consecutive hours and an additional mandatory
5 revocation period of six months; provided that the
6 total term of imprisonment for a person convicted
7 under this paragraph shall not exceed the maximum term
8 of imprisonment provided in paragraph (1).

9 Notwithstanding paragraph (1), the revocation period
10 for a person sentenced under this paragraph shall be
11 no less than eighteen months;

12 (5) In addition to a sentence under paragraph (2), for an
13 offense that occurs within ten years of a prior
14 conviction for an offense under this section, any
15 person who is convicted under this section and was a
16 highly intoxicated driver at the time of the subject
17 incident shall be sentenced to an additional mandatory
18 term of imprisonment of ten consecutive days and an
19 additional mandatory revocation period of one year;
20 provided that the total term of imprisonment for a
21 person convicted under this paragraph shall not exceed



1 the maximum term of imprisonment provided in paragraph
2 (2), as applicable. Notwithstanding paragraph (2),
3 the revocation period for a person sentenced under
4 this paragraph shall be no less than three years;
5 [and]

6 (6) A person sentenced pursuant to paragraph (1)(B) may
7 file a motion for early termination of the applicable
8 revocation period if the person:

9 (A) Was not sentenced to any additional mandatory
10 revocation period pursuant to paragraph (3) or
11 (4);

12 (B) Actually installed and maintained an ignition
13 interlock device on all vehicles operated by the
14 person for a continuous period of six months,
15 after which the person maintained the ignition
16 interlock device on all vehicles operated by the
17 person for a continuous period of three months
18 without violation;

19 (C) Includes with their motion for early termination
20 a certified court abstract establishing that they
21 were not sentenced to any additional mandatory



1 revocation period pursuant to paragraph (3) or
2 (4);
3 (D) Includes with their motion for early termination
4 a certified statement from the director of
5 transportation establishing that:
6 (i) The person installed and maintained an
7 ignition interlock device on all vehicles
8 operated by the person for a continuous
9 period of six months; and
10 (ii) After the six-month period, the person
11 maintained the ignition interlock device on
12 all vehicles operated by the person for a
13 continuous period of three months without
14 violation; and
15 (E) Has complied with all other sentencing
16 requirements.
17 Nothing in this paragraph shall require a court to
18 grant early termination of the revocation period if
19 the court finds that continued use of the ignition
20 interlock device will further the person's
21 rehabilitation or compliance with this section;



1 ~~[(+6+)]~~ (7) 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
9 driving during the period of applicable revocation
10 provided in paragraphs (1) to ~~[(+3)+]~~ (5); provided
11 that the person shall be sentenced to the maximum
12 license revocation period, the court shall not issue
13 an ignition interlock permit pursuant to subsection
14 (i), and the person shall be subject to the penalties
15 provided by section 291E-62 if the person drives
16 during the applicable revocation period~~[-]~~; and
17 (8) For purposes of this subsection, "violation" means:
18 (A) Providing a sample of .04 or more grams of
19 alcohol per two hundred ten liters of breath when
20 starting the vehicle, unless a subsequent test
21 performed within ten minutes registers a breath



- 1 alcohol concentration lower than .02 and the
2 digital image confirmed the same person provided
3 both samples;
- 4 (B) Providing a sample of .04 or more grams of
5 alcohol per two hundred ten liters of breath on a
6 rolling retest, unless a subsequent test
7 performed within ten minutes registers a breath
8 alcohol concentration lower than .02 and the
9 digital image confirms the same person provided
10 both samples;
- 11 (C) Failing to provide a rolling retest, unless an
12 acceptable test is performed within ten minutes;
- 13 (D) Violating section 291E-66; or
- 14 (E) Failing to provide a clear photo of the person
15 when the person blows into the ignition interlock
16 device."

17 SECTION 2. Section 291E-62, Hawaii Revised Statutes, is
18 amended as follows:

19 1. By amending subsection (a) to read:

20 "(a) No person whose license and privilege to operate a
21 vehicle have been revoked, suspended, or otherwise restricted



1 pursuant to this section [~~or to~~], part III [~~or~~], section 291E-61
2 or 291E-61.5, or [~~to~~] part VII or part XIV of chapter 286 or
3 section 200-81, 291-4, 291-4.4, 291-4.5, or 291-7 as those
4 provisions were in effect on December 31, 2001, shall operate or
5 assume actual physical control of any vehicle:

- 6 (1) In violation of any restrictions placed on the
7 person's license;
- 8 (2) While the person's license or privilege to operate a
9 vehicle remains suspended or revoked;
- 10 (3) Without installing an ignition interlock device
11 required by this chapter; or
- 12 (4) With an ignition interlock permit unless the person
13 has the ignition interlock permit and government-
14 issued identification in the person's immediate
15 possession. For purposes of this paragraph,
16 "government-issued identification" means:
- 17 (A) A passport issued by the United States of
18 America; or
- 19 (B) A photo identification card issued by any
20 federal, state, or local government."

21 2. By amending subsection (c) to read:



1 "(c) Any person convicted of violating this section shall
2 be sentenced as follows without possibility of probation or
3 suspension of sentence:

4 (1) For a first offense, or any offense not preceded
5 within a [~~five-year~~] ten-year period by conviction for
6 an offense under this section, section 291E-66, or
7 section 291-4.5 as that section was in effect on
8 December 31, 2001:

9 (A) A term of imprisonment of no less than three
10 consecutive days [~~but~~] and no more than thirty
11 days;

12 (B) A fine of no less than \$250 [~~but~~] and no more
13 than \$1,000, to be deposited into the state drug
14 and alcohol toxicology testing laboratory special
15 fund; and

16 (C) Revocation of license and privilege to operate a
17 vehicle for an additional year; [~~and~~

18 ~~(D) Loss of the privilege to operate a vehicle~~
19 ~~equipped with an ignition interlock device, if~~
20 ~~applicable;]~~



1 (2) For an offense that occurs within [~~five~~] ten years of
2 a prior conviction for an offense under this section,
3 section 291E-66, or section 291-4.5 as that section
4 was in effect on December 31, 2001:

5 (A) Thirty days imprisonment;

6 (B) A \$1,000 fine, to be deposited into the state
7 drug and alcohol toxicology testing laboratory
8 special fund; and

9 (C) Revocation of license and privilege to operate a
10 vehicle for an additional two years; [~~and~~

11 ~~(D) Loss of the privilege to operate a vehicle~~
12 ~~equipped with an ignition interlock device, if~~
13 ~~applicable; and]~~

14 (3) For an offense that occurs within [~~five~~] ten years of
15 two or more prior convictions for offenses under this
16 section, section 291E-66, or section 291-4.5 as that
17 section was in effect on December 31, 2001, or any
18 combination thereof:

19 (A) [~~One~~] No less than six months and no more than
20 one year imprisonment;



1 (B) A \$2,000 fine, to be deposited into the state
2 drug and alcohol toxicology testing laboratory
3 special fund; and

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

6 ~~[(D) Loss of the privilege to operate a vehicle~~
7 ~~equipped with an ignition interlock device, if~~
8 ~~applicable.]~~

9 (4) In addition to a sentence imposed under paragraphs (1)
10 through (3), any person who is convicted under this
11 section and also convicted under section 291E-61 or
12 291E-61.5, for an offense based on the same incident
13 or arising from the same episode, shall be sentenced
14 to terms of imprisonment for both offenses, which
15 shall be served consecutively."

16 SECTION 3. Section 291E-66, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[+]§291E-66[+] Circumvention of, or tampering with, an
19 ignition interlock device by a person who has been restricted to
20 operating a vehicle equipped with an ignition interlock device;
21 penalties. (a) No person whose driving privileges have been



1 restricted to operating a vehicle equipped with an ignition
2 interlock device shall knowingly[+] circumvent or tamper with an
3 ignition interlock device in any way, including but not limited
4 to:

5 (1) [~~Request, solicit, direct, or authorize~~] Requesting,
6 soliciting, directing, or authorizing another person
7 to blow into an ignition interlock device or start a
8 vehicle equipped with the device for the purpose of
9 providing an operable vehicle to a person who has been
10 restricted by law to operating only a vehicle so
11 equipped; [~~or~~]

12 (2) [~~Tamper~~] Tampering with an ignition interlock device
13 with the intent to render it inaccurate or
14 inoperable[-];

15 (3) Obscuring a camera lens associated with an ignition
16 interlock device; or

17 (4) Failing to provide a picture of the driver.

18 (b) Any person required under subsection (a) to drive
19 using an ignition interlock device[-] who violates subsection
20 (a) shall be sentenced without possibility of probation or
21 suspension of sentence as follows:



- 1 (1) For a first offense, or any offense not preceded
2 within a [~~five-year~~] ten-year period by conviction
3 under this section or section 291E-62(a)(3):
- 4 (A) A term of imprisonment of [~~not~~] no less than
5 three consecutive days [~~but not~~] and no more than
6 thirty days;
- 7 (B) A fine of [~~not~~] no less than \$250 [~~but not~~] and
8 no more than \$1,000; and
- 9 (C) Loss of the privilege to operate a vehicle
10 equipped with an ignition interlock device;
- 11 (2) For an offense that occurs within [~~five~~] ten years of
12 a prior conviction for an offense under this section
13 or section 291E-62(a)(3):
- 14 (A) Thirty days imprisonment;
- 15 (B) A \$1,000 fine; and
- 16 (C) Loss of the privilege to operate a vehicle
17 equipped with an ignition interlock device; and
- 18 (3) For an offense that occurs within [~~five~~] ten years of
19 two or more prior convictions for offenses under this
20 section or section 291E-62(a)(3), or any combination
21 thereof:



- 1 (A) One year imprisonment;
- 2 (B) A \$2,000 fine; and
- 3 (C) Loss of the privilege to operate a vehicle
- 4 equipped with an ignition interlock device."

5 SECTION 4. Act 216, Session Laws of Hawaii 2021, is

6 amended by amending section 10 to read as follows:

7 "SECTION 10. This Act shall take effect on July 1,

8 2021[-]; provided that the amendments made to sections 291E-61

9 and 291E-61.5, Hawaii Revised Statutes, by sections 5 and 6,

10 respectively, of this Act shall not be repealed when those

11 sections are reenacted on June 30, 2026, pursuant to section 11

12 of Act 196, Session Laws of Hawaii 2021."

13 SECTION 5. This Act does not affect rights and duties that

14 matured, penalties that were incurred, and proceedings that were

15 begun before its effective date.

16 SECTION 6. Statutory material to be repealed is bracketed

17 and stricken. New statutory material is underscored.

18 SECTION 7. This Act shall take effect on January 1, 2023;

19 provided that the amendments made to sections 291E-61 and

20 291E-62, Hawaii Revised Statutes, by sections 1 and 2,

21 respectively, of this Act shall not be repealed when those



1 sections are reenacted on June 30, 2026, pursuant to section 11
2 of Act 196, Session Laws of Hawaii 2021.



S.B. NO. 3165
S.D. 2
H.D. 1
C.D. 1

APPROVED this 17 day of June, 2022

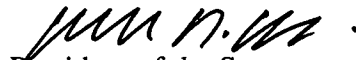
A handwritten signature in black ink, reading "David Y. Ige". The signature is fluid and cursive, with a large, sweeping "Y" and a long, horizontal stroke at the end.


GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAI‘I

Date: May 3, 2022
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 2022.


President of the Senate


Clerk of the Senate

SB No. 3165, SD 2, HD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 3, 2022
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 2022.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives