A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

- 1 SECTION 1. The legislature finds that there is a need to 2 amend the definition of "drug" for offenses under chapter 291E, 3 Hawaii Revised Statutes, involving the use of intoxicants while 4 operating a vehicle. For example, in order to convict an offender of the offense of operating a vehicle under the 5 6 influence of an intoxicant when the intoxicant is a drug under 7 section 291E-61(a)(2), Hawaii Revised Statutes, the prosecution 8 must prove beyond a reasonable doubt that: 9 (1)The person was operating the vehicle; and 10 (2) The person was under the influence of any drug that 11 impaired the person's ability to operate the vehicle 12 in a careful and prudent manner.
- However, because the term "drug" is defined for purposes of chapter 291E, Hawaii Revised Statutes, as any controlled substance listed in schedules I through IV of chapter 329, Hawaii Revised Statutes, it can be difficult for the prosecution to prove the second prong of the foregoing offense because many

- 1 drugs, like kava and certain muscle relaxants, can cause serious
- 2 impairment of drivers but are not scheduled as controlled
- 3 substances. In addition, there have been recent attempts at the
- 4 federal and state levels to remove cannabis and
- 5 tetrahydrocannabinols from the schedule of controlled
- 6 substances. If these were to succeed, persons found to be
- 7 driving while impaired by cannabis could not be persecuted under
- 8 Hawaii's current operating a vehicle under the influence of an
- 9 intoxicant statute.
- 10 The legislature further finds that the process of placing a
- 11 drug or substance on the schedule of controlled substances does
- 12 not respond quickly enough to emerging drugs. Synthetic drugs
- 13 can be manufactured very rapidly and can avoid law enforcement
- 14 when they are created by changing the chemical composition of an
- 15 existing drug; in this manner, synthetic drugs like "spice" and
- 16 "bath salts" evade the scheduling process. In order to quickly
- 17 adapt and prosecute offenders using new emerging drugs, law
- 18 enforcement should not be forced to rely solely on the
- 19 controlled substance schedules for certain offenses.
- The purpose of this Act is to amend the definitions of
- 21 "drug" and "substance" and add the definition of "substance

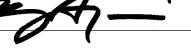
- 1 abuse" for purposes of operating a vehicle under the influence
- 2 of an intoxicant violations.
- 3 SECTION 2. Section 291E-1, Hawaii Revised Statutes, is
- 4 amended as follows:
- 5 1. By adding a new definition to be appropriately inserted
- 6 and to read:
- 7 ""Substance abuse" means the use or misuse of alcohol, any
- 8 drug on schedules I through IV of chapter 329, or any substance
- 9 as defined in this section, to any extent deemed deleterious or
- 10 detrimental to the user, to others, or to society."
- 11 2. By amending the definition of "drug" to read:
- ""Drug" means any controlled substance, as defined and
- 13 enumerated in schedules I through IV of chapter 329, or its
- 14 metabolites[-], or any substance that, when taken into the human
- 15 body, can impair the ability of a person to operate a vehicle
- 16 safely."
- 3. By amending the definition of "substance" to read:
- 18 ""Substance" [and "substance abuse" have the same meanings
- 19 as provided in section 321-191.] means any plant, medication,
- 20 poison, natural or synthetic chemical, or any compound or
- 21 combination of these, and includes but is not limited to central



- 1 nervous system depressants, central nervous systems stimulants,
- 2 hallucinogens, dissociative anesthetics, narcotic analgesics,
- 3 inhalants, and cannabis."
- 4 SECTION 3. This Act does not affect rights and duties that
- 5 matured, penalties that were incurred, and proceedings that were
- 6 begun before its effective date.
- 7 SECTION 4. Statutory material to be repealed is bracketed
- 8 and stricken. New statutory material is underscored.
- 9 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:



JAN 2 6 2022

Report Title:

Drug; Substance; Substance Abuse; Definition; Operating a Vehicle; Intoxicants

Description:

Clarifies the definitions of "drug", "substance", and "substance abuse" in chapter 291E, Hawaii Revised Statutes, regarding the use of intoxicants while operating a vehicle.

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