
A BILL FOR AN ACT

RELATING TO NEGLIGENT HOMICIDE.

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

1 SECTION 1. The legislature finds that impairment by drugs
2 and alcohol is a factor in many traffic fatalities in Hawaii.
3 Those killed in drunk driving crashes are given a death
4 sentence. A federal study reviewing data over a three year
5 period found drivers convicted of driving under the influence of
6 alcohol are at least 1.8 times more likely to be in fatal
7 crashes and at least four times as likely to be in fatal crashes
8 involving high blood or breath alcohol levels compared to
9 drivers without prior convictions. According to the National
10 Highway Traffic Safety Administration, motor vehicle crashes
11 that involve an alcohol-impaired driver kill twenty-eight people
12 in the United States every day, amounting to one death every
13 fifty-three minutes. The Centers for Disease Control and
14 Prevention estimates the annual cost of alcohol-related crashes
15 to be greater than forty-four billion dollars. The legislature
16 further finds that existing penalties need to be addressed to
17 deter drivers from repeatedly operating their vehicles under the



1 influence of drugs and alcohol and at increased blood or breath
2 alcohol levels to help prevent more traffic fatalities and save
3 lives.

4 The purpose of this Act is to elevate the penalty of
5 negligent homicide in the first degree from a class B felony to
6 a class A felony when certain conditions are met.

7 SECTION 2. Section 707-702.5, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§707-702.5 Negligent homicide in the first degree. (1)**

10 A person commits the offense of negligent homicide in the first
11 degree if that person causes the death of:

12 (a) Another person by the operation of a vehicle in a
13 negligent manner while under the influence of drugs or
14 alcohol; or

15 (b) A vulnerable user by the operation of a vehicle in a
16 negligent manner.

17 (2) ~~[Negligent homicide in the first degree is a class B~~
18 ~~felony.]~~ A person who violates subsection (1)(a) shall be guilty
19 of a class B felony; provided that the person shall be guilty of
20 a class A felony when the person:



1 (a) Has been convicted one or more times for the offense
2 of operating a vehicle under the influence within ten
3 years of the instant offense;

4 (b) Is, at the time of the instant offense, engaging in
5 conduct that would constitute a violation of section
6 291E-62; or

7 (c) Is a highly intoxicated driver as defined by section
8 291E-1.

9 (3) A person who violates subsection (1)(b) shall be
10 guilty of a class B felony.

11 (4) Notwithstanding sections 706-620(2), 706-640, 706-641,
12 706-659, and any other law to the contrary, the sentencing court
13 may impose a lesser sentence for a person convicted of a class A
14 felony under this section if the court finds that strong
15 mitigating circumstances warrant the action. Strong mitigating
16 circumstances shall include but not be limited to the provisions
17 of section 706-621. The court shall provide a written opinion
18 stating its reasons for imposing the lesser sentence.

19 (5) For the purposes of this section, a person "has been
20 convicted one or more times for the offense of operating a
21 vehicle under the influence" if the person has one or more:



1 (a) Convictions under section 291E-4(a), 291E-61, 291E-
2 61.5, or 291E-64;

3 (b) Convictions in any other state or federal jurisdiction
4 for an offense that is comparable to operating or
5 being in physical control of a vehicle while having
6 either an unlawful alcohol concentration or an
7 unlawful drug content in the blood or urine or while
8 under the influence of an intoxicant or habitually
9 operating a vehicle under the influence of an
10 intoxicant; or

11 (c) Adjudications of a minor for a law violation that, if
12 committed by an adult, would constitute a violation of
13 section 291E-4(a), 291E-61, or 291E-61.5,

14 that, at the time of the instant offense, had not been expunged
15 by pardon, reversed, or set aside. All convictions that have
16 been expunged by pardon, reversed, or set aside before the
17 instant offense shall not be deemed prior convictions for the
18 purposes of this section."

19 SECTION 3. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

4



Report Title:

Negligent Homicide; Class A Felony; Intoxication

Description:

Makes negligent homicide in the first degree a class A felony if the person causes the death of another by operating a vehicle in a negligent manner while under the influence of drugs or alcohol and the person has prior convictions for operating a vehicle under the influence or a suspended and revoked license and privilege to operate a vehicle due to driving while under the influence of an intoxicant or the person is a highly intoxicated driver, subject to certain conditions. (HD1)

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