

JAN 26 2022

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 deemed
14 appropriate by the court;



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

(C) Installation during the revocation period of an
ignition interlock device on all vehicles
operated by the person;

(D) Any one or more of the following:

(i) Seventy-two hours of community service work;

(ii) No less than forty-eight hours and no more
than five days of imprisonment; or

(iii) A fine of no less than \$250 but no more than
\$1,000;

(E) A surcharge of \$25 to be deposited into the
neurotrauma special fund; and

(F) A surcharge, if the court so orders, of up to \$25
to be deposited into the trauma system special
fund;

(2) For an offense that occurs within ten years of a prior
conviction for an offense under this section:

(A) A substance abuse program of at least thirty-six
hours, including education and counseling or



1 other comparable programs deemed appropriate by
2 the court;

3 (B) Revocation of license to operate a vehicle for no
4 less than two years but no more than three years;

5 (C) Installation during the revocation period of an
6 ignition interlock device on all vehicles
7 operated by the person;

8 (D) Either one of the following:

9 (i) No less than two hundred forty hours of
10 community service work; or

11 (ii) No less than five days but no more than
12 thirty days of imprisonment, of which at
13 least forty-eight hours shall be served
14 consecutively;

15 (E) A fine of no less than \$1,000 but no more than
16 \$3,000, to be deposited into the state drug and
17 alcohol toxicology testing laboratory special
18 fund;

19 (F) A surcharge of \$25 to be deposited into the
20 neurotrauma special fund; and



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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



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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 paragraphs (3) or
11 (4);

12 (B) Actually installed and maintained an ignition
13 interlock device in one or more vehicles for a
14 continuous period of six months, after which the
15 person maintained the ignition interlock device
16 in one or more vehicles for a continuous period
17 of three months without violation, as that term
18 is defined in rules established by the department
19 of transportation; and

20 (C) The person has complied with all other sentencing
21 requirements.



1 Nothing in this paragraph shall require a court to
2 grant early termination of the revocation period if
3 the court finds that continued use of the ignition
4 interlock device will further the person's
5 rehabilitation or compliance with this section; and

6 ~~[(6)]~~ (7) If the person demonstrates to the court that the
7 person:

8 (A) Does not own or have the use of a vehicle in
9 which the person can install an ignition
10 interlock device during the revocation period; or

11 (B) Is otherwise unable to drive during the
12 revocation period,

13 the person shall be absolutely prohibited from driving
14 during the period of applicable revocation provided in
15 paragraphs (1) to ~~[(3)]~~ (5); provided that the person
16 shall be sentenced to the maximum license revocation
17 period, the court shall not issue an ignition
18 interlock permit pursuant to subsection (i), and the
19 person shall be subject to the penalties provided by
20 section 291E-62 if the person drives during the
21 applicable revocation period."



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1 SECTION 2. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

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

6 SECTION 4. This Act shall take effect upon its approval;
7 provided that the amendments made to section 291E-61, Hawaii
8 Revised Statutes, by section 1 of this Act shall not be repealed
9 when that section is repealed and reenacted pursuant to Act 196,
10 Session Laws of Hawaii 2021.

11
INTRODUCED BY: 



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Report Title:

Operating a Vehicle Under the Influence of an Intoxicant; First Time Offenders; Ignition Interlock Device; Driver's License Revocation

Description:

Lengthens the driver's license revocation period for first time offenders convicted of operating a vehicle under the influence of an intoxicant who do not install an ignition interlock device. Allows early termination of driver's license revocation after nine months upon showing three consecutive months of ignition interlock use without any violations.

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