
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;



1 (B) [~~One-year revocation~~] Revocation of license to
2 operate a vehicle[+] for not less than one year
3 and not more than eighteen months;

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

7 (D) Any one or more of the following:

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

9 (ii) [~~Ne~~] Not less than forty-eight hours and
10 [~~ne~~] not more than five days of

11 imprisonment; or

12 (iii) A fine of [~~ne~~] not less than \$250 [~~but ne~~]
13 and not more than \$1,000;

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

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

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



1 (A) A substance abuse program of at least thirty-six
2 hours, including education and counseling or
3 other comparable programs deemed appropriate by
4 the court;

5 (B) Revocation of license to operate a vehicle for
6 ~~[no]~~ not less than two years ~~[but no]~~ and not
7 more than three years;

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

11 (D) Either one of the following:

12 (i) ~~[No]~~ Not less than two hundred forty hours
13 of community service work; or

14 (ii) ~~[No]~~ Not less than five days ~~[but no]~~ and
15 not more than thirty days of imprisonment,
16 of which at least forty-eight hours shall be
17 served consecutively;

18 (E) A fine of ~~[no]~~ not less than \$1,000 ~~[but no]~~ and
19 not more than \$3,000, to be deposited into the
20 state drug and alcohol toxicology testing
21 laboratory special fund;



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

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

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



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

11 Notwithstanding paragraph (1), the revocation period
12 for a person sentenced under this paragraph shall be
13 ~~[no]~~ not less than eighteen months;

14 (5) In addition to a sentence under paragraph (2), for an
15 offense that occurs within ten years of a prior
16 conviction for an offense under this section, any
17 person who is convicted under this section and was a
18 highly intoxicated driver at the time of the subject
19 incident shall be sentenced to an additional mandatory
20 term of imprisonment of ten consecutive days and an
21 additional mandatory revocation period of one year;



1 provided that the total term of imprisonment for a
2 person convicted under this paragraph shall not exceed
3 the maximum term of imprisonment provided in paragraph
4 (2), as applicable. Notwithstanding paragraph (2),
5 the revocation period for a person sentenced under
6 this paragraph shall be ~~[no]~~ not less than three
7 years; ~~[and]~~

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

11 (A) Was not sentenced to any additional mandatory
12 revocation period pursuant to paragraphs (3) or
13 (4);

14 (B) Actually installed and maintained an ignition
15 interlock device in one or more vehicles for a
16 continuous period of six months, after which the
17 person maintained the ignition interlock device
18 in one or more vehicles for a continuous period
19 of three months without violation;

20 (C) Includes with their motion for early termination
21 a certified court abstract establishing that they



1 were not sentenced to any additional mandatory
2 revocation period pursuant to paragraph (3) or
3 (4);

4 (D) Includes with their motion for early termination
5 a certified statement from the director of
6 transportation establishing that:

7 (i) The person installed and maintained an
8 ignition interlock device in one or more
9 vehicles for a continuous period of six
10 months; and

11 (ii) After the six-month period the person
12 maintained the ignition interlock device in
13 one or more vehicles for a continuous period
14 of three months without 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 paragraph "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 if 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. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

20 SECTION 3. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect on January 1, 2050.



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. Effective 1/1/2050. (SD2)

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