

JAN 19 2022

A BILL FOR AN ACT

RELATING TO THE STATEWIDE TRAFFIC CODE.

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

1 SECTION 1. Chapter 291E, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§291E- Ignition interlock device; violations;
5 penalties; compliance. (a) Notwithstanding any provision of
6 this chapter to the contrary, no person whose driver's license
7 has been revoked pursuant to section 291E-41 or who has been
8 convicted under section 291E-61 or 291E-61.5, and who has an
9 ignition interlock device installed in any vehicle operated by
10 the person, shall be eligible for a driver's license without
11 providing proof of compliance from the director of
12 transportation that the person:

13 (1) For the first offense, or any offense not preceded
14 within ten years of a prior offense, has had an
15 ignition interlock device installed for a period of
16 sixty consecutive days without any violations;



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1 (2) For an offense that occurs within ten years of a prior
2 offense, has had an ignition interlock device
3 installed for a period of ninety consecutive days
4 without any violations; or

5 (3) For a habitual offense and subsequent offenses that
6 occur within ten years of two or more prior offenses,
7 has had an ignition interlock device installed for a
8 period of one-hundred eighty consecutive days without
9 any violations.

10 (b) A person violates this section by:

11 (1) Providing a sample of .04 or more grams of alcohol per
12 two hundred ten liters of breath when starting the
13 vehicle, unless a subsequent test performed within ten
14 minutes registers a breath alcohol concentration lower
15 than 0.02 and the digital image confirms the same
16 person provided both samples;

17 (2) Providing a sample of .04 or more grams of alcohol per
18 two hundred ten liters of breath on a rolling retest,
19 unless a subsequent test performed within ten minutes
20 registers a breath alcohol concentration lower than



1 0.02 and the digital image confirms the same person
2 provided both samples;

3 (3) Failing to provide a rolling retest;

4 (4) Violating section 291E-66; or

5 (5) Failing to provide a clear photo of the person when
6 the person blows into the ignition interlock device.

7 (c) Any violation that occurs during the period in which
8 the ignition interlock device is installed shall constitute as
9 noncompliance. The time required to prove compliance shall
10 commence again after any violation until compliance is proven.

11 (d) The requirements of subsection (a) shall be in
12 addition to any sanction or penalty imposed pursuant to section
13 291E-41, 291E-61, or 291E-61.5. The requirements of this
14 section shall be an administrative requirement of being eligible
15 to apply for a driver's license."

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

18 "(b) A person committing the offense of operating a
19 vehicle under the influence of an intoxicant shall be sentenced
20 without possibility of probation or suspension of sentence as
21 follows:



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- 1 (1) Except as provided in paragraph (4), for the first
2 offense, or any offense not preceded within a ten-year
3 period by a conviction for an offense under this
4 section or section 291E-4(a):
- 5 (A) A fourteen-hour minimum substance abuse
6 rehabilitation program, including education and
7 counseling, or other comparable program deemed
8 appropriate by the court;
- 9 (B) One-year revocation of license to operate a
10 vehicle;
- 11 (C) Installation during the revocation period of an
12 ignition interlock device on all vehicles
13 operated by the person;
- 14 (D) Any one or more of the following:
- 15 (i) Seventy-two hours of community service work;
- 16 (ii) No less than forty-eight hours and no more
17 than five days of imprisonment; or
- 18 (iii) A fine of no less than \$250 but no more than
19 \$1,000;
- 20 (E) A surcharge of \$25 to be deposited into the
21 neurotrauma special fund; and



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



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- 1 (E) A fine of no less than \$1,000 but no more than
2 \$3,000, to be deposited into the state drug and
3 alcohol toxicology testing laboratory special
4 fund;
- 5 (F) A surcharge of \$25 to be deposited into the
6 neurotrauma special fund; and
- 7 (G) A surcharge of up to \$50, if the court so orders,
8 to be deposited into the trauma system special
9 fund;
- 10 (3) In addition to a sentence imposed under paragraphs (1)
11 and (2), any person eighteen years of age or older who
12 is convicted under this section and who operated a
13 vehicle with a passenger, in or on the vehicle, who
14 was younger than fifteen years of age, shall be
15 sentenced to an additional mandatory fine of \$500 and
16 an additional mandatory term of imprisonment of forty-
17 eight hours; provided that the total term of
18 imprisonment for a person convicted under this
19 paragraph shall not exceed the maximum term of
20 imprisonment provided in paragraph (1) or (2), as
21 applicable. Notwithstanding paragraphs (1) and (2),



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1 the revocation period for a person sentenced under
2 this paragraph shall be no less than two years;

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

15 Notwithstanding paragraph (1), the revocation period
16 for a person sentenced under this paragraph shall be
17 no less than eighteen months;

18 (5) In addition to a sentence under paragraph (2), for an
19 offense that occurs within ten years of a prior
20 conviction for an offense under this section, any
21 person who is convicted under this section and was a



1 highly intoxicated driver at the time of the subject
2 incident shall be sentenced to an additional mandatory
3 term of imprisonment of ten consecutive days and an
4 additional mandatory revocation period of one year;
5 provided that the total term of imprisonment for a
6 person convicted under this paragraph shall not exceed
7 the maximum term of imprisonment provided in paragraph
8 (2), as applicable. Notwithstanding paragraph (2),
9 the revocation period for a person sentenced under
10 this paragraph shall be no less than three years; and
11 (6) If the person demonstrates to the court that the
12 person:
13 (A) Does not own or have the use of a vehicle in
14 which the person can install an ignition
15 interlock device during the revocation period; or
16 (B) Is otherwise unable to drive during the
17 revocation period,
18 the person shall be absolutely prohibited from driving
19 ~~[during the]~~ for a period of [applicable revocation
20 ~~provided in paragraphs (1) to (3);]~~ two years;
21 provided that the court shall not issue an ignition



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1 interlock permit pursuant to subsection (i) and the
2 person shall be subject to the penalties provided by
3 section 291E-62 if the person drives during the
4 applicable revocation period."

5 SECTION 3. 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 that
11 section is reenacted on June 30, 2026, pursuant to section 11 of
12 Act 196, Session Laws of Hawaii 2021."

13 SECTION 4. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

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1 SECTION 5. This Act shall take effect upon its approval;
2 provided that the amendments made to section 291E-61, Hawaii
3 Revised Statutes, by section 2 of this Act shall not be repealed
4 when that section is reenacted on June 20, 2026, pursuant to
5 section 11 of Act 196, Session Laws of Hawaii 2021.

6

INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'C. Am', is written over a horizontal line.



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Report Title:

Ignition Interlock Device; Operating a Vehicle Under the Influence of an Intoxicant; Penalties; Compliance

Description:

Prohibits any person whose driver's license has been administratively revoked or who has been convicted for offenses involving operating a vehicle under the influence of an intoxicant from being eligible for a driver's license without providing proof of compliance with the ignition interlock law. Prohibits a person from driving for two years if the person does not own or have the use of a vehicle for the installation of an ignition interlock device or is otherwise unable to drive during the revocation period.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

