
A BILL FOR AN ACT

RELATING TO INTOXICATING LIQUOR.

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

1 SECTION 1. Section 281-78, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) At no time under any circumstances shall any licensee
4 or its employee:

5 (1) Sell, serve, or furnish any liquor to, or allow the
6 consumption of any liquor by:

7 (A) Any minor;

8 (B) Any person at the time under the influence of
9 liquor;

10 (C) Any person known to the licensee to be addicted
11 to the excessive use of intoxicating liquor; [~~or~~]

12 (D) Any restricted person; or

13 [~~(D)~~] (E) Any person for consumption in any vehicle

14 that is licensed to travel on public highways;

15 provided that the consumption or sale of liquor to a

16 minor shall not be deemed to be a violation of this

17 subsection if, in making the sale or allowing the



H.B. NO. 1594

1 consumption of any liquor by a minor, the licensee was
2 misled by the appearance of the minor and the
3 attending circumstances into honestly believing that
4 the minor was of legal age and the licensee acted in
5 good faith; provided further that it shall be
6 incumbent upon the licensee to prove that the licensee
7 so acted in good faith;

8 (2) Permit any liquor to be consumed on the premises of
9 the licensee or on any premises connected therewith,
10 whether there purchased or not, except as permitted by
11 the terms of its license;

12 (3) Permit any liquor to be sold or served by any person
13 eighteen to twenty years of age except in licensed
14 establishments where selling or serving the
15 intoxicating liquor is part of the minor's employment,
16 and where there is proper supervision of these minor
17 employees to ensure that the minors shall not consume
18 the intoxicating liquor;

19 (4) Permit any liquor to be sold or served by any person
20 below the age of eighteen years upon any licensed
21 premises, except in individually specified licensed



H.B. NO. 1594

1 establishments found to be otherwise suitable by the
2 liquor commission in which an approved program of job
3 training and employment for dining room waiters and
4 waitresses is being conducted in cooperation with the
5 University of Hawaii, the state community college
6 system, or a federally sponsored personnel development
7 and training program, under arrangements that ensure
8 proper control and supervision of employees;

9 (5) Knowingly permit any person under the influence of
10 liquor or disorderly person to be or remain in or on
11 the licensed premises;

12 (6) Fail to timely prevent or suppress any violent,
13 quarrelsome, disorderly, lewd, immoral, or unlawful
14 conduct of any person on the premises; or

15 (7) Receive from a person, as payment or as a
16 consideration for liquor, any personal or household
17 goods, including clothing and food, or any implements
18 of trade. Any person violating this paragraph shall
19 be guilty of a misdemeanor and upon conviction shall
20 be punished as provided in section 281-102.



1 For purposes of this subsection, "restricted person" has
2 the same meaning as in section 712-1250.5."

3 SECTION 2. Section 281-101.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§281-101.5 Prohibitions involving minors[?] or restricted**
6 **persons; penalty.** (a) Any adult who provides or purchases
7 liquor for consumption or use by a person under twenty-one years
8 of age or any restricted person shall be guilty of the offense
9 under section 712-1250.5.

10 (b) No minor or restricted person shall consume or
11 purchase liquor and no minor or restricted person shall consume
12 or have liquor in the [~~minor's~~] minor or restricted person's
13 possession or custody in any public place, public gathering, or
14 public amusement, at any public beach or public park, or in any
15 motor vehicle on a public highway; provided that notwithstanding
16 any other law to the contrary, this subsection shall not apply
17 to:

18 (1) Possession or custody of liquor by a minor or
19 restricted person in the course of delivery, pursuant
20 to the direction of the [~~minor's~~] minor or restricted



1 person's employer lawfully engaged in business

2 necessitating the delivery;

3 (2) Possession, custody, or consumption of liquor by a

4 minor or restricted person in connection with the

5 [~~minor's~~] minor or restricted person's authorized

6 participation in religious ceremonies requiring [~~such~~]

7 the possession, custody, or consumption; or

8 (3) Any person between the ages of eighteen and twenty,

9 who is participating in a controlled purchase as part

10 of a law enforcement activity or a study authorized by

11 the department of health to determine the level of

12 incidence of liquor sales to minors.

13 (c) No minor or restricted person shall falsify any

14 identification or use any false identification or identification

15 of another person or of a fictitious person for the purpose of

16 buying or attempting to buy liquor or for the purpose of

17 obtaining employment to sell or serve liquor on licensed

18 premises.

19 (d) Any person under the age of eighteen who violates this

20 section shall be subject to the jurisdiction of the family

21 court. Any restricted person over the age of twenty-one who



H.B. NO. 1594

1 violates this section or person [age] aged eighteen to
2 twenty-one who violates subsection (b) or (c) shall be guilty of
3 a petty misdemeanor. The court shall order that any person
4 under twenty-one years of age found to be in violation of this
5 section shall have, in addition to any other disposition or
6 sentencing provision permitted by law, the person's license to
7 operate a motor vehicle, or the person's ability to obtain a
8 license to operate a motor vehicle, suspended as follows:

9 (1) For licensed drivers, the driver's license shall be
10 suspended for not less than one hundred and eighty
11 days with exceptions to allow, at the discretion of
12 the sentencing court, driving to and from school,
13 school-sponsored activities, and employment;

14 (2) For persons with a provisional license, the
15 provisional license shall be suspended for not less
16 than one hundred and eighty days with exceptions to
17 allow, at the discretion of the sentencing court,
18 driving to and from school, school-sponsored
19 activities, and employment;

20 (3) For persons with an instruction permit, the
21 instruction permit shall be suspended for not less



1 than one hundred and eighty days with exceptions to
2 allow, at the discretion of the sentencing court,
3 driving to and from school, school-sponsored
4 activities, and employment; or
5 (4) For persons not licensed to drive, eligibility to
6 obtain a driver's license, provisional license, or
7 instruction permit shall be suspended until the age of
8 seventeen or for one hundred and eighty days, at the
9 discretion of the court; and
10 (5) Chapter 571 notwithstanding, in any case where a
11 person under the age of eighteen violates this
12 section, the family court judge may suspend the
13 driver's license, provisional license, or instruction
14 permit, or suspend the eligibility to obtain a
15 driver's license, provisional license, or instruction
16 permit in accordance with this section;
17 provided that the requirement to provide proof of financial
18 responsibility pursuant to section 287-20 shall not be based
19 upon a sentence imposed under paragraphs (1) and (2). In
20 addition, all persons whether or not licensed, found to be in
21 violation of this section shall be sentenced to seventy-five



1 hours of community service work, and an eight to twelve hour
2 program of alcohol education and counseling the costs of which
3 shall be borne by the offender or the offender's parent or
4 guardian.

5 (e) As used in this section [~~,"consume"~~]:

6 "Consume" or "consumption" includes the ingestion of
7 liquor.

8 "Restricted person" has the same meaning as in
9 section 712-1250.5."

10 SECTION 3. Section 286-103, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§286-103 Restrictions on driver's license; rules and**
13 **regulations.** (a) The examiner of drivers may adopt rules and
14 regulations restricting the use of a driver's license in any
15 manner the examiner of drivers may deem necessary for the safety
16 and welfare of the traveling public and may impose restrictions
17 with respect to the type of equipment or special mechanical
18 control devices required on the motor vehicle operated by the
19 licensee appropriate to the driving ability of the licensee.
20 Any restrictions shall be indicated on the license issued.



1 (b) The examiner of drivers shall adopt rules restricting
2 the use of a driver's license issued to a person who is
3 prohibited from purchasing or publicly consuming liquor within
4 the probation period commencing on the effective date of the
5 administrative revocation for a violation of section 291E-61 or
6 291E-61.5. A license subject to this subsection shall bear the
7 notation "Liquor Restricted" and shall not be accepted as a
8 valid form of identification for the purchase of liquor. A
9 driver's license that bears the notation "Liquor Restricted"
10 shall expire no later than the date upon which the probation
11 period expires."

12 SECTION 4. Section 286-106, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§286-106 Expiration of licenses.** Every driver's license
15 issued under this part, except for a provisional license issued
16 under section 286-102.6 that shall expire on the date of the
17 provisional licensee's nineteenth birthday, whether an original
18 issuance or a renewal, shall expire on the first birthday of the
19 licensee occurring no less than eight years after the date of
20 the issuance of the license, unless sooner revoked or suspended;
21 provided that:



H.B. NO. 1594

- 1 (1) The license shall expire on the first birthday of the
2 licensee occurring no less than four years after the
3 date of the issuance if, at the time, the licensee is:
- 4 (A) Twenty-four years of age or younger; or
5 (B) Seventy-two years of age or older but younger
6 than eighty years of age;
- 7 (2) The license shall expire on the first birthday of the
8 licensee occurring no less than two years after the
9 date of the issuance of the license if, at that time,
10 the licensee is eighty years of age or older; [~~and~~]
- 11 (3) If the licensee is a legal immigrant, the license
12 shall expire no later than the licensee's authorized
13 period of stay in the United States[~~-~~]; and
- 14 (4) A license that bears the notation "Liquor Restricted"
15 issued to any person who is prohibited from purchasing
16 or publicly consuming liquor during a probation period
17 that commences on the effective date of a revocation
18 of the person's driver's license for violation of
19 section 291E-61 or section 291E-61.5 shall expire no
20 later than the date of expiration of the probation
21 period.



1 include any designation other than the term "veteran". As used
2 in this subsection, "veteran" means any person who served in any
3 of the uniformed services of the United States and was
4 discharged under conditions other than dishonorable.

5 (c) The identification card shall not display the
6 cardholder's social security number.

7 (d) The identification card shall be designed to prevent
8 its reproduction or alteration without ready detection.

9 (e) The identification card for individuals under
10 twenty-one years of age shall have characteristics prescribed by
11 the examiner distinguishing it from that issued to [a] an
12 individual who is twenty-one years of age or older.

13 (f) An identification card issued to an individual who has
14 been convicted for a violation of section 291E-61 or 291E-61.5
15 and is prohibited from purchasing or publicly consuming liquor
16 shall bear the notation "Liquor Restricted". The identification
17 card shall be valid for a probation period, commencing on the
18 date of conviction. The issuance of an identification card
19 pursuant to this subsection shall invalidate any prior
20 identification card issued to the individual that does not bear
21 the notation required by this subsection, regardless of the date



1 of expiration listed on the identification card. An
2 identification card issued pursuant to this subsection shall not
3 be valid identification for the purchase of liquor."

4 SECTION 6. Section 291E-34, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By amending subsection (e) to read:

7 "(e) The notice shall state that, if the respondent's
8 license and privilege to operate a vehicle is administratively
9 revoked after the review, a decision shall be mailed to the
10 respondent, or to the parent or guardian of the respondent if
11 the respondent is under the age of eighteen, that shall contain,
12 at a minimum, the following information:

13 (1) The reasons why the respondent's license and privilege
14 to operate a vehicle is administratively revoked;

15 (2) That the respondent may request the director, within
16 six days of the date the decision is mailed, to
17 schedule an administrative hearing to review the
18 administrative revocation;

19 (3) That, if the respondent's request for an
20 administrative hearing is received by the director



1 within six days of the date the decision was mailed,
2 the hearing shall be scheduled to commence:

3 (A) No later than twenty-five days after the date of
4 the issuance of the notice of administrative
5 revocation in the case of an [~~alcohol-related~~]
6 alcohol-related offense; and

7 (B) No later than thirty-nine days after the date of
8 the issuance of the notice of administrative
9 revocation in the case of a [~~drug-related~~]
10 drug-related offense;

11 (4) The procedure to request an administrative hearing;

12 (5) That failure to request an administrative hearing
13 within the time provided shall cause the
14 administrative revocation to take effect for the
15 period and under the conditions established by the
16 director in the decision;

17 (6) That the respondent may regain the right to a hearing
18 by requesting the director, within sixty days after
19 the issuance of the notice of administrative
20 revocation, to schedule a hearing;



H.B. NO. 1594

- 1 (7) That the director shall schedule the hearing to
2 commence no later than thirty days after a request
3 under paragraph (6) is received, but that, except as
4 provided in section 291E-38(j), the temporary permit
5 shall not be extended if the respondent fails to
6 request an administrative hearing within the initial
7 six-day period provided for that purpose;
- 8 (8) That failure to attend the hearing shall cause the
9 administrative revocation to take effect for the
10 period and under the conditions indicated;
- 11 (9) The duration of the administrative revocation and
12 other conditions that may be imposed, including[+]
13 referral to the driver's education program for an
14 assessment of the respondent's substance abuse or
15 dependence and the need for treatment; [~~and~~]
- 16 (10) That the respondent shall obtain an ignition interlock
17 permit in order to operate a vehicle during the
18 revocation period if the respondent had a valid
19 license at the time of the arrest[-]; and
- 20 (11) That the respondent shall be prohibited from
21 purchasing or publicly consuming liquor for a



1 probation period commencing on the date that the
2 administrative revocation of the respondent's license
3 becomes effective."

4 2. By amending subsection (h) to read:

5 "(h) The notice shall state that, if the administrative
6 revocation is sustained at the hearing, a written decision shall
7 be mailed to the respondent, or to the parent or guardian of the
8 respondent if the respondent is under the age of eighteen, that
9 shall contain, at a minimum, the following information:

- 10 (1) The effective date of the administrative revocation;
11 (2) The duration of the administrative revocation;
12 (3) Other conditions that may be imposed by law, including
13 the use of an ignition interlock device[+] and a
14 probation period prohibiting the purchase or public
15 consumption of liquor; and
16 (4) The right to obtain judicial review."

17 SECTION 7. Section 291E-41, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§291E-41 Effective date, conditions, and period of**
20 **administrative revocation; criteria.** (a) Unless an
21 administrative revocation is reversed or the temporary permit is



1 extended by the director, administrative revocation shall become
2 effective on the day specified in the notice of administrative
3 revocation. Except as provided in section 291E-44.5, no license
4 to operate a vehicle shall be restored under any circumstances
5 during the administrative revocation period. Upon completion of
6 the administrative revocation period, the respondent may reapply
7 and be reissued a license pursuant to section 291E-45.

8 (b) Except as provided in paragraphs (4) (A) (ii) and (5)
9 and in section 291E-44.5, the respondent shall keep an ignition
10 interlock device installed and operating in all vehicles
11 operated by the respondent during the revocation period. Except
12 as provided in section 291E-5, installation and maintenance of
13 the ignition interlock device shall be at the respondent's
14 expense. The periods of administrative revocation, with respect
15 to a license to operate a vehicle, that shall be imposed under
16 this part are as follows:

17 (1) A [~~one-year~~] one-year revocation of license to operate
18 a vehicle, if the respondent's record shows no prior
19 alcohol enforcement contact or drug enforcement
20 contact during the ten years preceding the date the
21 notice of administrative revocation was issued;



- 1 (2) A two-year revocation of license to operate a vehicle,
2 if the respondent's record shows one prior alcohol
3 enforcement contact or drug enforcement contact during
4 the ten years preceding the date the notice of
5 administrative revocation was issued;
- 6 (3) A four-year revocation of license to operate a
7 vehicle, if the respondent's record shows two or more
8 prior alcohol enforcement contacts or drug enforcement
9 contacts during the ten years preceding the date the
10 notice of administrative revocation was issued;
- 11 (4) For a respondent who is a highly intoxicated driver:
12 (A) If the respondent's record shows no prior alcohol
13 enforcement contact or drug enforcement contact
14 during the ten years preceding the date the
15 notice of administrative revocation was issued:
16 (i) An eighteen-month revocation of license to
17 operate a vehicle, with mandatory
18 installation of an ignition interlock device
19 in all vehicles operated by the respondent
20 during the revocation period; or



H.B. NO. 1594

- 1 (ii) A two-year revocation of license to operate
2 a vehicle, without mandatory installation of
3 an ignition interlock device in all vehicles
4 operated by the respondent during the
5 revocation period;
- 6 (B) If the respondent's record shows one prior
7 alcohol enforcement contact or drug enforcement
8 contact during the ten years preceding the date
9 the notice of administrative revocation was
10 issued, a three-year revocation of license to
11 operate a vehicle, with mandatory installation of
12 an ignition interlock device in all vehicles
13 operated by the respondent during the revocation
14 period; and
- 15 (C) If the respondent's record shows two or more
16 prior alcohol enforcement contacts or drug
17 enforcement contacts during the ten years
18 preceding the date the notice of administrative
19 revocation was issued, a six-year revocation of
20 license to operate a vehicle, with mandatory
21 installation of an ignition interlock device in



1 all vehicles operated by the respondent during
2 the revocation period;

3 (5) For respondents under the age of eighteen years who
4 were arrested for a violation of section 291E-61 or
5 291E-61.5, revocation of license and privilege to
6 operate a vehicle for the appropriate revocation
7 period provided in paragraphs (1) to (3) or in
8 subsection (c); provided that the respondent shall be
9 prohibited from driving during the period preceding
10 the respondent's eighteenth birthday and shall
11 thereafter be subject to the ignition interlock
12 requirement of this subsection for the balance of the
13 revocation period; or

14 (6) For respondents, other than those excepted pursuant to
15 section 291E-44.5(c), who do not install an ignition
16 interlock device in all vehicles operated by the
17 respondent during the revocation period, revocation of
18 license to operate a vehicle for the period of
19 revocation provided in paragraphs (1) to (4) (A) or in
20 subsection (c); provided that:



H.B. NO. 1594

1 (A) The respondent shall be absolutely prohibited
2 from driving during the revocation period and
3 subject to the penalties provided by section
4 291E-62 if the respondent drives during the
5 revocation period; and

6 (B) The director shall not issue an ignition
7 interlock permit to the respondent pursuant to
8 section 291E-44.5;

9 provided that when more than one administrative revocation,
10 suspension, or conviction arises out of the same arrest, it
11 shall be counted as only one prior alcohol enforcement contact
12 or drug enforcement contact, whichever revocation, suspension,
13 or conviction occurs later.

14 (c) If a respondent has refused to be tested after being
15 informed:

16 (1) That the person may refuse to submit to testing in
17 compliance with section 291E-11; and

18 (2) Of the sanctions of this part and then asked if the
19 person still refuses to submit to a breath, blood, or
20 urine test, in compliance with the requirements of
21 section 291E-15,



1 the revocation imposed under subsection (b) (1), (2), or (3)
2 shall be for a period of two years, four years, or eight years,
3 respectively.

4 (d) Whenever a license to operate a vehicle is
5 administratively revoked under this part, the respondent shall
6 be referred to the driver's education program for an assessment,
7 by a certified substance abuse counselor, of the respondent's
8 substance abuse or dependence and the need for treatment. The
9 counselor shall submit a report with recommendations to the
10 director. If the counselor's assessment establishes that the
11 extent of the respondent's substance abuse or dependence
12 warrants treatment, the director shall so order. All costs for
13 assessment and treatment shall be paid by the respondent.

14 (e) Whenever a license and privilege to operate a vehicle
15 is administratively revoked under this part, the respondent
16 shall be prohibited from purchasing or publicly consuming liquor
17 for a probation period commencing on the effective date of the
18 administrative revocation. Any driver's license, identification
19 card, ignition interlock permit, or special permit that is
20 issued to the respondent by a court pursuant to section 291E-61
21 or the director pursuant to section 291E-44.5 during the



1 probation period and that authorizes the respondent to operate a
2 vehicle owned by the respondent's employer shall bear the
3 notation "Liquor Restricted" and shall not be accepted as a
4 valid form of identification for the purchase of liquor.

5 [~~e~~] (f) Alcohol and drug enforcement contacts that
6 occurred prior to January 1, 2002, shall be counted in
7 determining the administrative revocation period.

8 [~~f~~] (g) The requirement to provide proof of financial
9 responsibility pursuant to section 287-20 shall not be based
10 upon a revocation under subsection (b) (1)."

11 SECTION 8. Section 291E-44.5, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By amending subsection (a) to read:

14 "(a) Except as provided in subsection (b), upon proof that
15 the respondent has installed an ignition interlock device in any
16 vehicle the respondent operates and obtained motor vehicle
17 insurance or self-insurance that complies with the requirements
18 of section 431:10C-104 or 431:10C-105, the director shall issue
19 an ignition interlock permit that will allow the respondent to
20 drive a vehicle equipped with an ignition interlock device
21 during the revocation period. An ignition interlock permit



H.B. NO. 1594

1 shall bear the notation "Liquor Restricted" and shall not be
2 accepted as a valid form of identification for the purchase of
3 liquor."

4 2. By amending subsection (c) to read:

5 "(c) Except as provided in subsection (b), the director
6 may issue a separate permit authorizing a respondent to operate
7 a vehicle owned by the respondent's employer during the period
8 of revocation without installation of an ignition interlock
9 device if the respondent is gainfully employed in a position
10 that requires driving and the respondent will be discharged if
11 prohibited from driving a vehicle not equipped with an ignition
12 interlock device. A separate permit issued pursuant to this
13 subsection shall bear the notation "Liquor Restricted" and shall
14 not be accepted as a valid form of identification for the
15 purchase of liquor."

16 3. By amending subsection (e) to read:

17 "(e) A permit issued pursuant to subsection (c) shall
18 include restrictions allowing the respondent to drive:

19 (1) Only during specified hours of employment, not to
20 exceed twelve hours per day, or the period of the



1 specified assigned hours of work, and only for
2 activities solely within the scope of the employment;

3 (2) Only the vehicles specified; and

4 (3) Only if the permit is kept in the respondent's
5 possession while operating the employer's vehicle.

6 [~~In addition, the~~] A permit issued pursuant to subsection (c)
7 shall bear the notation "Liquor Restricted" and shall not be
8 accepted as a valid form of identification for the purchase of
9 liquor. The director may impose any other [appropriate]
10 restrictions[-] that the director deems appropriate."

11 SECTION 9. Section 291E-45, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) To be eligible for relicensing or renewing the
14 privilege to operate a vessel after a period of administrative
15 revocation has expired, the person shall:

16 (1) Submit proof to the director of compliance with all
17 conditions imposed by the director;

18 (2) Obtain a certified statement from the director
19 indicating eligibility for relicensing and for
20 renewing the privilege to operate a vessel;



1 (3) Present the certified statement to the appropriate
2 licensing official or to the department of land and
3 natural resources, as applicable; and

4 (4) Successfully complete each requirement, including
5 payment of all applicable fees, for:

6 (A) Obtaining a new license in this State, pursuant
7 to chapter 286; or

8 (B) Renewing the privilege to operate a vessel, as
9 may be provided in chapter 200 or rules adopted
10 by the department of land and natural resources
11 pursuant to section 200-24."

12 Any license issued or renewed pursuant to this subsection
13 during the probation period that commences on the date the
14 administrative revocation of the person's license became
15 effective shall bear the notation "Liquor Restricted" and shall
16 not be accepted as a valid form of identification for the
17 purchase of liquor. A license that bears the notation "Liquor
18 Restricted" shall expire on the date upon which the probation
19 period expires."

20 SECTION 10. Section 291E-61, Hawaii Revised Statutes, is
21 amended as follows:



1 1. By amending subsection (b) to read:

2 "(b) A person committing the offense of operating a
3 vehicle under the influence of an intoxicant shall be sentenced
4 without possibility of probation or suspension of sentence as
5 follows:

6 (1) Except as provided in paragraph (4), for the first
7 offense, or any offense not preceded within a ten-year
8 period by a conviction for an offense under this
9 section or section 291E-4(a):

10 (A) A fourteen-hour minimum substance abuse
11 rehabilitation program, including education and
12 counseling, or other comparable programs deemed
13 appropriate by the court;

14 (B) Revocation of license to operate a vehicle for no
15 less than one year and no more than eighteen
16 months;

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

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

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



H.B. NO. 1594

- 1 (ii) No less than forty-eight hours and no more
2 than five days of imprisonment; or
3 (iii) A fine of no less than \$250 and no more than
4 \$1,000;
- 5 (E) A surcharge of \$25 to be deposited into the
6 neurotrauma special fund; ~~and~~
- 7 (F) A surcharge, if the court so orders, ~~of~~ of up
8 to \$25 to be deposited into the trauma system
9 special fund; and
- 10 (G) A probation period, commencing on the effective
11 date of the license revocation period under
12 subparagraph (B) or paragraph (3) or (4), as
13 applicable, prohibiting the purchase or public
14 consumption of liquor by the person, if deemed
15 appropriate by the court;
- 16 (2) For an offense that occurs within ten years of a prior
17 conviction for an offense under this section:
- 18 (A) A substance abuse program of at least thirty-six
19 hours, including education and counseling, or
20 other comparable programs deemed appropriate by
21 the court;



H.B. NO. 1594

- 1 (B) Revocation of license to operate a vehicle for no
2 less than two years and no more than three years;
- 3 (C) Installation during the revocation period of an
4 ignition interlock device on all vehicles
5 operated by the person;
- 6 (D) Either one of the following:
- 7 (i) No less than two hundred forty hours of
8 community service work; or
- 9 (ii) No less than five days and no more than
10 thirty days of imprisonment, of which at
11 least forty-eight hours shall be served
12 consecutively;
- 13 (E) A fine of no less than \$1,000 and no more than
14 \$3,000, to be deposited into the [state] drug and
15 alcohol toxicology testing laboratory special
16 fund;
- 17 (F) A surcharge of \$25 to be deposited into the
18 neurotrauma special fund; [~~and~~]
- 19 (G) A surcharge of up to \$50, if the court so orders,
20 to be deposited into the trauma system special
21 fund; and



H.B. NO. 1594

1 (H) A probation period, commencing on the effective
2 date of the license revocation period under
3 subparagraph (A) or paragraph (3) or (5), as
4 applicable, prohibiting the purchase or public
5 consumption of liquor by the person, if deemed
6 appropriate by the court;

7 (3) In addition to a sentence imposed under paragraphs (1)
8 and (2), any person eighteen years of age or older who
9 is convicted under this section and who operated a
10 vehicle with a passenger, in or on the vehicle, who
11 was younger than fifteen years of age, shall be
12 sentenced to an additional mandatory fine of \$500 and
13 an additional mandatory term of imprisonment of
14 forty-eight hours; provided that the total term of
15 imprisonment for a person convicted under this
16 paragraph shall not exceed the maximum term of
17 imprisonment provided in paragraph (1) or (2), as
18 applicable. Notwithstanding paragraphs (1) and (2),
19 the revocation period for a person sentenced under
20 this paragraph shall be no less than two years;



- 1 (4) In addition to a sentence imposed under paragraph (1),
2 for a first offense under this section, or an offense
3 not preceded within a ten-year period by a conviction
4 for an offense, any person who is convicted under this
5 section and was a highly intoxicated driver at the
6 time of the subject incident shall be sentenced to an
7 additional mandatory term of imprisonment for
8 forty-eight consecutive hours and an additional
9 mandatory revocation period of six months; provided
10 that the total term of imprisonment for a person
11 convicted under this paragraph shall not exceed the
12 maximum term of imprisonment provided in paragraph
13 (1). Notwithstanding paragraph (1), the revocation
14 period for a person sentenced under this paragraph
15 shall be no less than eighteen months;
- 16 (5) In addition to a sentence under paragraph (2), for an
17 offense that occurs within ten years of a prior
18 conviction for an offense under this section, any
19 person who is convicted under this section and was a
20 highly intoxicated driver at the time of the subject
21 incident shall be sentenced to an additional mandatory



H.B. NO. 1594

1 term of imprisonment of ten consecutive days and an
2 additional mandatory revocation period of one year;
3 provided that the total term of imprisonment for a
4 person convicted under this paragraph shall not exceed
5 the maximum term of imprisonment provided in paragraph
6 (2), as applicable. Notwithstanding paragraph (2),
7 the revocation period for a person sentenced under
8 this paragraph shall be no less than three years;

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

12 (A) Was not sentenced to any additional mandatory
13 revocation period pursuant to paragraph (3) or
14 (4);

15 (B) Actually installed and maintained an ignition
16 interlock device on all vehicles operated by the
17 person for a continuous period of six months,
18 after which the person maintained the ignition
19 interlock device on all vehicles operated by the
20 person for a continuous period of three months
21 without violation;



1 (C) Includes with the person's motion for early
2 termination a certified court abstract
3 establishing that the person was not sentenced to
4 any additional mandatory revocation period
5 pursuant to paragraph (3) or (4);

6 (D) Includes with the person's motion for early
7 termination a certified statement from the
8 director of transportation establishing that:

9 (i) The person installed and maintained an
10 ignition interlock device on all vehicles
11 operated by the person for a continuous
12 period of six months; and

13 (ii) After the six-month period, the person
14 maintained the ignition interlock device on
15 all vehicles operated by the person for a
16 continuous period of three months without
17 violation; and

18 (E) Has complied with all other sentencing
19 requirements.

20 Nothing in this paragraph shall require a court to
21 grant early termination of the revocation period if



1 the court finds that continued use of the ignition
2 interlock device will further the person's
3 rehabilitation or compliance with this section;
4 (7) If the person demonstrates to the court that the
5 person:
6 (A) Does not own or have the use of a vehicle in
7 which the person can install an ignition
8 interlock device during the revocation period; or
9 (B) Is otherwise unable to drive during the
10 revocation period,
11 the person shall be prohibited from driving during the
12 period of applicable revocation provided in paragraphs
13 (1) to (5); provided that the person shall be
14 sentenced to the maximum license revocation period,
15 the court shall not issue an ignition interlock permit
16 pursuant to subsection (i), and the person shall be
17 subject to the penalties provided by section 291E-62
18 if the person drives during the applicable revocation
19 period; and
20 (8) For purposes of this subsection, "violation" means:



- 1 (A) Providing a sample of .04 or more grams of
2 alcohol per two hundred ten liters of breath when
3 starting the vehicle, unless a subsequent test
4 performed within ten minutes registers a breath
5 alcohol concentration lower than .02 and the
6 digital image [~~confirmed~~] confirms that the same
7 person provided both samples;
- 8 (B) Providing a sample of .04 or more grams of
9 alcohol per two hundred ten liters of breath on a
10 rolling retest, unless a subsequent test
11 performed within ten minutes registers a breath
12 alcohol concentration lower than .02 and the
13 digital image confirms the same person provided
14 both samples;
- 15 (C) Failing to provide a rolling retest, unless an
16 acceptable test is performed within ten minutes;
- 17 (D) Violating section 291E-66; or
- 18 (E) Failing to provide a clear photo of the person
19 when the person blows into the ignition interlock
20 device."
- 21 2. By amending subsection (d) to read:



1 "(d) Except as provided in subsection (c), the court may
2 issue a separate permit authorizing a defendant to operate a
3 vehicle owned by the defendant's employer during the period of
4 revocation without installation of an ignition interlock device
5 if the defendant is gainfully employed in a position that
6 requires driving and the defendant will be discharged if
7 prohibited from driving a vehicle not equipped with an ignition
8 interlock device. Any separate permit issued pursuant to this
9 subsection to a person prohibited from purchasing or publicly
10 consuming liquor during the probation period that commences on
11 the effective date of the administrative revocation of the
12 person's license shall bear the notation "Liquor Restricted" and
13 shall not be accepted as a valid form of identification for the
14 purchase of liquor. A separate permit that bears the notation
15 "Liquor Restricted" shall expire no later than the date upon
16 which the probation period expires."

17 3. By amending subsection (j) to read:

18 "(j) Notwithstanding any other law to the contrary,
19 whenever a court revokes a person's driver's license pursuant to
20 this section, the examiner of drivers shall not grant to the
21 person a new driver's license until the expiration of the period



1 of revocation determined by the court. After the period of
2 revocation is completed, the person may apply for, and the
3 examiner of drivers may grant to the person, a new driver's
4 license. Any new driver's license granted pursuant to this
5 subsection to a person prohibited from purchasing or publicly
6 consuming liquor during the probation period that commences on
7 the effective date of the administrative revocation of the
8 person's license shall bear the notation "Liquor Restricted" and
9 shall not be accepted as a valid form of identification for the
10 purchase of liquor. A driver's license that bears the notation
11 "Liquor Restricted" shall expire no later than the date upon
12 which the probation period expires."

13 SECTION 11. Section 291E-61.5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 1. By amending subsection (d) to read:

16 "(d) For any person who is convicted under this section
17 and was a highly intoxicated driver at the time of the subject
18 incident, the offense shall be a class B felony and the person
19 shall be sentenced to the following:

20 (1) An indeterminate term of imprisonment of ten years; or



1 (2) A term of probation of five years, with conditions to
2 include the following:

3 (A) Permanent revocation of license to operate a
4 vehicle;

5 (B) No less than eighteen months imprisonment;

6 (C) A fine of no less than \$5,000 but no more than
7 \$25,000; and

8 (D) Referral to a certified substance abuse counselor
9 as provided in subsection (e).

10 In addition to the foregoing, any vehicle owned and operated by
11 the person who committed the offense shall be subject to
12 forfeiture pursuant to chapter 712A. In addition to all other
13 penalties provided, any person convicted under this section
14 shall be prohibited, for a probation period commencing on the
15 effective date of the license revocation period under
16 subparagraph (A), from purchasing or publicly consuming liquor,
17 if deemed appropriate by the court."

18 2. By amending subsection (f) to read:

19 "(f) Notwithstanding any other law to the contrary,
20 whenever a court revokes a person's driver's license pursuant to
21 this section, the examiner of drivers shall not grant to the



1 person a new driver's license until expiration of the period of
2 revocation determined by the court. After the period of
3 revocation is complete, the person may apply for, and the
4 examiner of drivers may grant to the person, a new driver's
5 license. Any new driver's license granted pursuant to this
6 subsection to a person who is prohibited from purchasing or
7 publicly consuming liquor during the probation period that
8 commences on the effective date of the administrative revocation
9 of the person's license shall bear the notation "Liquor
10 Restricted" and shall not be accepted as a valid form of
11 identification for the purchase of liquor. A driver's license
12 that bears the notation "Liquor Restricted" shall expire no
13 later than the date upon which the probation period expires."

14 SECTION 12. Section 291E-61.6, Hawaii Revised Statutes, is
15 amended to read as follows:

16 1. By amending subsection (b) to read:

17 "(b) Any person under subsection (a) may file a petition
18 in the district court for permission to apply for an ignition
19 interlock instruction permit that will allow the person to take
20 the driving demonstration portion of the driver's license
21 examination. The petition shall be filed with the clerk of the



1 district court in the district in which the arrest occurred and
2 shall be accompanied by the required filing fee for civil
3 actions. The petition shall include the following:

4 (1) A certified court abstract establishing that other
5 than the instant offense, the petitioner has no
6 pending traffic matters, outstanding fines,
7 outstanding court costs, and outstanding restitution;

8 (2) A certified statement from the director establishing
9 that the petitioner has complied with all
10 requirements, including payment of applicable fees,
11 undergone substance abuse assessment and treatment,
12 and surrendered motor vehicle registration and vehicle
13 number plates, if applicable; and

14 (3) A proposed order.

15 In determining whether the petitioner may be granted an ignition
16 interlock instruction permit, the district court shall consider
17 whether the requirements of paragraphs (1) through (3) are met
18 and may also consider any other factors, including but not
19 limited to the petitioner's criminal and traffic record after
20 receiving a lifetime license revocation, and based on the
21 foregoing, the district court shall determine whether an order



1 allowing the petitioner to apply to the director for an ignition
2 interlock instruction permit and requiring the director to
3 remove any stopper placed on the petitioner's motor vehicle
4 registration files pursuant to part III of chapter 291E, as
5 applicable, shall be issued; provided that the petitioner
6 complies with applicable driver licensing requirements under
7 part VI of chapter 286, and proof of financial responsibility
8 under chapter 287. Upon submission of the order to the
9 director, the director shall remove any stopper placed on the
10 person's motor vehicle registration files and issue a certified
11 statement indicating eligibility for an ignition interlock
12 instruction permit.

13 Any ignition interlock instruction permit issued pursuant
14 to this subsection to a person who is prohibited from purchasing
15 or publicly consuming liquor during the probation period that
16 commences on the effective date of the administrative revocation
17 of the person's license shall bear the notation "Liquor
18 Restricted" and shall not be accepted as a valid form of
19 identification for the purchase of liquor. An ignition
20 interlock instruction permit that bears the notation "Liquor



1 Restricted" shall expire no later than the date upon which the
2 probation period expires."

3 2. By amending subsection (d) to read:

4 "(d) Upon showing the ignition interlock instruction
5 permit to the examiner of drivers, an applicant may take the
6 driving demonstration portion of the driver's license
7 examination in accordance with section 286-108. Upon successful
8 completion of the driving demonstration portion of the driver's
9 license examination, an applicant may apply to the director for
10 an ignition interlock permit pursuant to section 291E-44.5. If
11 granted, the ignition interlock permit shall expire as provided
12 in this section and section 286-106 or upon the end of the
13 revocation period, whichever occurs first.

14 Any ignition interlock permit issued pursuant to this
15 subsection to a person who is prohibited from purchasing or
16 publicly consuming liquor during the probation period that
17 commences on the effective date of the administrative revocation
18 of the person's license shall bear the notation "Liquor
19 Restricted" and shall not be accepted as a valid form of
20 identification for the purchase of liquor. An ignition
21 interlock permit that bears the notation "Liquor Restricted"



1 shall expire no later than the date upon which the probation
2 period expires."

3 SECTION 13. Section 712-1250.5, Hawaii Revised Statutes,
4 is amended to read as follows:

5 "§712-1250.5 Promoting intoxicating liquor to a person
6 under the age of twenty-one[-] or a restricted person. (1) A
7 person, including any licensee as defined in section 281-1,
8 commits the offense of promoting intoxicating liquor to a person
9 under the age of twenty-one or a restricted person if the person
10 recklessly:

11 (a) Sells or offers for sale, influences the sale, serves,
12 delivers, or gives to a person intoxicating liquor,
13 and the person receiving the intoxicating liquor is a
14 person under the age of twenty-one[+] or a restricted
15 person; or

16 (b) Permits a person to possess intoxicating liquor while
17 on property under [~~his~~] the person's control, and the
18 person possessing the intoxicating liquor is a person
19 under the age of twenty-one[-] or a restricted person.



1 (2) It is a defense to a prosecution for promoting
2 intoxicating liquor to a person under the age of twenty-one or a
3 restricted person that:

4 (a) The intoxicating liquor provided to the person under
5 the age of twenty-one or the restricted person was an
6 ingredient in a medicine prescribed by a licensed
7 physician for medical treatment of the person under
8 the age of twenty-one[+] or the restricted person;

9 (b) The intoxicating liquor was provided to the person
10 under the age of twenty-one as part of a ceremony of a
11 recognized religion;

12 (c) The defendant provided the intoxicating liquor to the
13 [person]:

14 (i) Person under the age of twenty-one with the
15 belief, which was reasonable under the
16 circumstances, that the person under the age of
17 twenty-one had attained the age of twenty-one; or

18 (ii) Restricted person with the belief, which was
19 reasonable under the circumstances, that the
20 person was not a restricted person;



1 (d) The defendant provided the intoxicating liquor to the
2 person under the age of twenty-one with the express
3 consent of the parent or legal guardian and with the
4 belief, which was reasonable under the circumstances,
5 that the person under the age of twenty-one would not
6 consume any portion of the substance;

7 (e) The defendant provided the intoxicating liquor to the
8 person under the age of twenty-one with the express
9 consent of the parent or legal guardian and with the
10 belief, which was reasonable under the circumstances,
11 that the person under the age of twenty-one would
12 consume the substance only in the presence of the
13 parent or legal guardian; or

14 (f) The intoxicating liquor was possessed by the person
15 under the age of twenty-one or the restricted person
16 to be sold or served as allowed by law.

17 (3) The fact that a person engaged in the conduct
18 specified by this section is prima facie evidence that the
19 person engaged in that conduct with knowledge of the character,
20 nature, and quantity of the intoxicating liquor possessed,
21 distributed, or sold.



1 The fact that the defendant distributed or sold
2 intoxicating liquor to a person under the age of twenty-one or a
3 restricted person is prima facie evidence that the defendant
4 knew the transferee was a person under the age of twenty-one[7]
5 or a restricted person, except as provided in subsection (2) (c).

6 (4) Promoting intoxicating liquor to a person under the
7 age of twenty-one or a restricted person is a misdemeanor.

8 (5) For purposes of this section, "restricted person"
9 means a person who holds any driver's license, identification
10 card, ignition interlock permit, or special permit that bears
11 the notation "Liquor Restricted" due to conviction or
12 administrative license revocation for violation of
13 section 291E-61 or 291E-61.5."

14 SECTION 14. Section 712-1252, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§712-1252 Knowledge of character, nature, or quantity of**
17 **substance, or character or age of transferee; prima facie**
18 **evidence.** (1) The fact that a person engaged in the conduct
19 specified by any section in this part is prima facie evidence
20 that the person engaged in that conduct with knowledge of the
21 character, nature, and quantity of the dangerous drug, harmful



1 drug, detrimental drug, or intoxicating compounds possessed,
2 distributed, or sold.

3 (2) The fact that the defendant distributed or sold a
4 dangerous drug, harmful drug, detrimental drug, or intoxicating
5 compound to a minor or a restricted person is prima facie
6 evidence that the defendant knew the transferee to be a minor[-]
7 or a restricted person.

8 (3) For purposes of this section, "restricted person" has
9 the same meaning as in section 712-1250.5."

10 SECTION 15. This Act does not affect rights and duties
11 that matured, penalties that were incurred, and proceedings that
12 were begun before its effective date.

13 SECTION 16. If any provision of this Act, or the
14 application thereof to any person or circumstance, is held
15 invalid, the invalidity does not affect other provisions or
16 applications of the Act that can be given effect without the
17 invalid provision or application, and to this end the provisions
18 of this Act are severable.

19 SECTION 17. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



H.B. NO. 1594

1 SECTION 18. This Act shall take effect upon its approval;
2 provided that the amendments made to section 291E-61, Hawaii
3 Revised Statutes, by section 10 of this Act shall not be
4 repealed when that section is reenacted on June 30, 2028,
5 pursuant to section 11 of Act 196, Session laws of Hawaii 2021,
6 as amended by Act 148, Session Laws of Hawaii 2023.

7

INTRODUCED BY:



JAN 16 2024



H.B. NO. 1594

Report Title:

Intoxicating Liquor; Operating a Vehicle Under the Influence;
Public Consumption; Purchase; Prohibition

Description:

Prohibits any person convicted of operating a vehicle under the influence of an intoxicant or habitually operating a vehicle under the influence of an intoxicant from purchasing or publicly consuming alcohol for a certain period.

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

