

---

---

# A BILL FOR AN ACT

RELATING TO THE DRUG AND ALCOHOL TOXICOLOGY TESTING LABORATORY.

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

1           SECTION 1. The legislature finds that Act 196, Session  
2 Laws of Hawaii 2021, established the state drug and alcohol  
3 toxicology testing laboratory special fund to support a state  
4 drug and alcohol toxicology testing laboratory; specified that  
5 moneys in the state highway fund may be expended for the cost of  
6 establishing a state drug and alcohol toxicology testing  
7 laboratory; required that fines imposed on offenders convicted  
8 of certain offenses involving operating a vehicle under the  
9 influence of an intoxicant be deposited into the state drug and  
10 alcohol toxicology testing laboratory special fund; and required  
11 the department of health to submit reports to the legislature on  
12 expenditures from the state drug and alcohol toxicology testing  
13 laboratory special fund.

14           The legislature also finds that Act 119, Session Laws of  
15 Hawaii 2022, appropriated moneys from the state highway fund to  
16 the state drug and alcohol toxicology testing laboratory special  
17 fund for fiscal year 2022-2023; and authorized the department of



1 health to expend funds from the state drug and alcohol  
2 toxicology testing laboratory special fund for the establishment  
3 of the state drug and alcohol toxicology testing laboratory.

4 The legislature further finds that Act 120, Session Laws of  
5 Hawaii 2022, appropriated moneys from the state highway fund to  
6 the state drug and alcohol toxicology testing laboratory special  
7 fund for fiscal year 2021-2022; and authorized the department of  
8 health to expend these funds from the state drug and alcohol  
9 toxicology testing laboratory special fund for the establishment  
10 of the state drug and alcohol toxicology testing laboratory.

11 The legislature recognizes, however, that there is an  
12 immediate and urgent need for blood alcohol testing, and the  
13 department of health cannot fulfill these services at this time.  
14 The city and county of Honolulu emergency services department is  
15 currently able to conduct blood alcohol testing for all counties  
16 and will be able to conduct drug testing for impaired driving  
17 cases in the future if provided the funding.

18 The purpose of this Act is to:

- 19 (1) Specify that moneys in the state highway fund may be  
20 expended for the cost of establishing and maintaining  
21 a drug and alcohol toxicology testing laboratory;



- 1           (2)   Rename the state drug and alcohol toxicology testing  
2                   laboratory special fund to remove the word "state";
- 3           (3)   Specify that moneys in the drug and alcohol toxicology  
4                   testing laboratory special fund shall be administered  
5                   and expended by the department of transportation or  
6                   appropriated as a grant-in-aid to the emergency  
7                   services department of a county with a population of  
8                   five hundred thousand or more; and
- 9           (4)   Appropriate moneys from the state highway fund into  
10                   the drug and alcohol toxicology testing laboratory  
11                   special fund.

12           SECTION 2.   Section 248-9, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14           "(a)   Moneys in the state highway fund may be expended for  
15 the following purposes:

- 16           (1)   To pay the costs of operation, maintenance, and repair  
17                   of the state highway system, including without  
18                   limitation, the cost of equipment and general  
19                   administrative overhead;
- 20           (2)   To pay the costs of acquisition, including real  
21                   property and interests therein; planning; designing;



1 construction; and reconstruction of the state highway  
2 system and bikeways, including without limitation, the  
3 cost of equipment and general administrative overhead;

4 (3) To reimburse the general fund for interest on and  
5 principal of general obligation bonds issued to  
6 finance highway projects where the bonds are  
7 designated to be reimbursable out of the state highway  
8 fund;

9 (4) To pay the costs of construction, maintenance, and  
10 repair of county roads; provided that none of the  
11 funds expended on a county road or program shall be  
12 federal funds when expenditure would cause a violation  
13 of federal law or a federal grant agreement; and

14 (5) To pay the ~~cost~~ costs of establishing and  
15 maintaining a ~~state~~ drug and alcohol toxicology  
16 testing laboratory that is intended to support the  
17 prosecution of offenses relating to operation of a  
18 motor vehicle while under the influence of an  
19 intoxicant."

20 SECTION 3. Section 291E-8, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           " ~~[+]§291E-8[+]—State drug]~~ Drug and alcohol toxicology  
 2 **testing laboratory special fund; established.** (a) There is  
 3 established in the state treasury a [state] drug and alcohol  
 4 toxicology testing laboratory special fund, into which shall be  
 5 deposited:

6           (1) All fines collected pursuant to  
 7 sections ~~[+]291E-61(b)(2)(E)[+]~~, 291E-61.5(c)(2)(C),  
 8 and 291E-62(c);

9           (2) Moneys appropriated by the legislature to the fund;

10          (3) Other grants and gifts made to the fund; and

11          (4) Any income and interest earned on the balance of the  
 12 fund.

13          (b) Moneys in the ~~[state]~~ drug and alcohol toxicology  
 14 testing laboratory special fund shall be administered and  
 15 expended by the ~~[department of health]~~ department of  
 16 transportation, or appropriated as a grant-in-aid to the  
 17 emergency services department of a county with a population of  
 18 five hundred thousand or more to support a [state] drug and  
 19 alcohol toxicology testing laboratory."

20           SECTION 4. Section 291E-61, Hawaii Revised Statutes, is  
 21 amended by amending subsection (b) to read as follows:



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

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

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

13           (B) Revocation of license to operate a vehicle for  
14           ~~[no]~~ not less than one year and ~~[no]~~ not more  
15           than eighteen months;

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

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

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



- 1 (ii) [~~ne~~] Not less than forty-eight hours and  
2 [~~ne~~] not more than five days of  
3 imprisonment; or  
4 (iii) A fine of [~~ne~~] not less than \$250 and [~~ne~~]  
5 not more than \$1,000;  
6 (E) A surcharge of \$25 to be deposited into the  
7 neurotrauma special fund; and  
8 (F) A surcharge, if the court so orders, or up to \$25  
9 to be deposited into the trauma system special  
10 fund;  
11 (2) For an offense that occurs within ten years of a prior  
12 conviction for an offense under this section:  
13 (A) A substance abuse program of at least thirty-six  
14 hours, including education and counseling, or  
15 other comparable programs deemed appropriate by  
16 the court;  
17 (B) Revocation of license to operate a vehicle for  
18 [~~ne~~] not less than two years and [~~ne~~] not more  
19 than three years;



- 1 (C) Installation during the revocation period of an  
2 ignition interlock device on all vehicles  
3 operated by the person;
- 4 (D) Either one of the following:
- 5 (i) [~~Ne~~] Not less than two hundred forty hours  
6 of community service work; or
- 7 (ii) [~~Ne~~] Not less than five days and [~~ne~~] not  
8 more than thirty days of imprisonment, of  
9 which at least forty-eight hours shall be  
10 served consecutively;
- 11 (E) A fine of [~~ne~~] not less than \$1,000 and [~~ne~~] not  
12 more than \$3,000, to be deposited into the  
13 [~~state~~] drug and alcohol toxicology testing  
14 laboratory special fund;
- 15 (F) A surcharge of \$25 to be deposited into the  
16 neurotrauma special fund; and
- 17 (G) A surcharge of up to \$50, if the court so orders,  
18 to be deposited into the trauma system special  
19 fund;
- 20 (3) In addition to a sentence imposed under paragraphs (1)  
21 and (2), any person eighteen years of age or older who



1 is convicted under this section and who operated a  
2 vehicle with a passenger, in or on the vehicle, who  
3 was younger than fifteen years of age, shall be  
4 sentenced to an additional mandatory fine of \$500 and  
5 an additional mandatory term of imprisonment of  
6 forty-eight hours; provided that the total term of  
7 imprisonment for a person convicted under this  
8 paragraph shall not exceed the maximum term of  
9 imprisonment provided in paragraph (1) or (2), as  
10 applicable. Notwithstanding paragraphs (1) and (2),  
11 the revocation period for a person sentenced under  
12 this paragraph shall be ~~no~~ not less than two years;

13 (4) In addition to a sentence imposed under paragraph (1),  
14 for a first offense under this section, or an offense  
15 not preceded within a ten-year period by a conviction  
16 for an offense, any person who is convicted under this  
17 section and was a highly intoxicated driver at the  
18 time of the subject incident shall be sentenced to an  
19 additional mandatory term of imprisonment for  
20 forty-eight consecutive hours and an additional  
21 mandatory revocation period of six months; provided



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

7 (5) In addition to a sentence under paragraph (2), for an  
8 offense that occurs within ten years of a prior  
9 conviction for an offense under this section, any  
10 person who is convicted under this section and was a  
11 highly intoxicated driver at the time of the subject  
12 incident shall be sentenced to an additional mandatory  
13 term of imprisonment of ten consecutive days and an  
14 additional mandatory revocation period of one year;  
15 provided that the total term of imprisonment for a  
16 person convicted under this paragraph shall not exceed  
17 the maximum term of imprisonment provided in paragraph  
18 (2), as applicable. Notwithstanding paragraph (2),  
19 the revocation period for a person sentenced under  
20 this paragraph shall be [~~no~~] not less than three  
21 years;



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

4 (A) Was not sentenced to any additional mandatory  
5 revocation period pursuant to paragraph (3) or  
6 (4);

7 (B) Actually installed and maintained an ignition  
8 interlock device on all vehicles operated by the  
9 person for a continuous period of six months,  
10 after which the person maintained the ignition  
11 interlock device on all vehicles operated by the  
12 person for a continuous period of three months  
13 without violation;

14 (C) Includes with [~~their~~] the person's motion for  
15 early termination a certified court abstract  
16 establishing that [~~they were~~] the person was not  
17 sentenced to any additional mandatory revocation  
18 period pursuant to paragraph (3) or (4);

19 (D) Includes with [~~their~~] the person's motion for  
20 early termination a certified statement from the  
21 director of transportation establishing that:



1 (i) The person installed and maintained an  
2 ignition interlock device on all vehicles  
3 operated by the person for a continuous  
4 period of six months; and

5 (ii) After the six-month period, the person  
6 maintained the ignition interlock device on  
7 all vehicles operated by the person for a  
8 continuous period of three months without  
9 violation; and

10 (E) Has complied with all other sentencing  
11 requirements.

12 Nothing in this paragraph shall require a court to  
13 grant early termination of the revocation period if  
14 the court finds that continued use of the ignition  
15 interlock device will further the person's  
16 rehabilitation or compliance with this section;

17 (7) If the person demonstrates to the court that the  
18 person:

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



- 1 (B) Is otherwise unable to drive during the  
2 revocation period,  
3 the person shall be prohibited from driving during the  
4 period of applicable revocation provided in paragraphs  
5 (1) to (5); provided that the person shall be  
6 sentenced to the maximum license revocation period,  
7 the court shall not issue an ignition interlock permit  
8 pursuant to subsection (i), and the person shall be  
9 subject to the penalties provided by section 291E-62  
10 if the person drives during the applicable revocation  
11 period; and
- 12 (8) For purposes of this subsection, "violation" means:
- 13 (A) Providing a sample of .04 or more grams of  
14 alcohol per two hundred ten liters of breath when  
15 starting the vehicle, unless a subsequent test  
16 performed within ten minutes registers a breath  
17 alcohol concentration lower than .02 and the  
18 digital image confirmed the same person provided  
19 both samples;
- 20 (B) Providing a sample of .04 or more grams of  
21 alcohol per two hundred ten liters of breath on a



1 rolling retest, unless a subsequent test  
 2 performed within ten minutes registers a breath  
 3 alcohol concentration lower than .02 and the  
 4 digital image confirms the same person provided  
 5 both samples;

6 (C) Failing to provide a rolling retest, unless an  
 7 acceptable test is performed within ten minutes;

8 (D) Violating section 291E-66; or

9 (E) Failing to provide a clear photo of the person  
 10 when the person blows into the ignition interlock  
 11 device."

12 SECTION 5. Section 291E-61.5, Hawaii Revised Statutes, is  
 13 amended by amending subsection (c) to read as follows:

14 "(c) For a conviction under this section, the sentence  
 15 shall be either:

- 16 (1) An indeterminate term of imprisonment of five years;  
 17 or
- 18 (2) A term of probation of five years, with conditions to  
 19 include:
- 20 (A) Mandatory revocation of license to operate a  
 21 vehicle for a period [~~no~~] not less than three



- 1 years but [~~no~~] not more than five years, with  
2 mandatory installation of an ignition interlock  
3 device in all vehicles operated by the respondent  
4 during the revocation period;
- 5 (B) [~~Not~~] Not less than ten days imprisonment, of  
6 which at least forty-eight hours shall be served  
7 consecutively;
- 8 (C) A fine of [~~no~~] not less than \$2,000 but no more  
9 than \$5,000, to be deposited into the [~~state~~]  
10 drug and alcohol toxicology testing laboratory  
11 special fund;
- 12 (D) Referral to a certified substance abuse counselor  
13 as provided in subsection (e);
- 14 (E) A surcharge of \$25 to be deposited into the  
15 neurotrauma special fund; and
- 16 (F) A surcharge of up to \$50 to be deposited into the  
17 trauma system special fund if the court so  
18 orders.
- 19 In addition to the foregoing, any vehicle owned and operated by  
20 the person committing the offense shall be subject to forfeiture  
21 pursuant to chapter 712A."



1 SECTION 6. Section 291E-62, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:

3 "(c) Any person convicted of violating this section shall  
4 be sentenced as follows without possibility of probation or  
5 suspension of sentence:

6 (1) For a first offense, or any offense not preceded  
7 within a ten-year period by conviction for an offense  
8 under this section, section 291E-66, or  
9 section 291-4.5 as that section was in effect on  
10 December 31, 2001:

11 (A) A term of imprisonment of [~~no~~] not less than  
12 three consecutive days and no more than thirty  
13 days;

14 (B) A fine of [~~no~~] not less than \$250 and [~~no~~] not  
15 more than \$1,000, to be deposited into the  
16 [~~state~~] drug and alcohol toxicology testing  
17 laboratory special fund; and

18 (C) Revocation of license and privilege to operate a  
19 vehicle for an additional year;

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



- 1           291E-66, or section 291-4.5 as that section was in  
2 effect on December 1, 2001:
- 3           (A) Thirty days imprisonment;
- 4           (B) A \$1,000 fine, to be deposited into the [state]  
5 drug and alcohol toxicology testing laboratory  
6 special fund; and
- 7           (C) Revocation of license and privilege to operate a  
8 vehicle for an additional two years;
- 9       (3) For an offense that occurs within ten years of two or  
10 more prior convictions for offenses under this  
11 section, section 291E-66, or section 291-4.5 as that  
12 section was in effect on December 31, 2001, or any  
13 combination thereof:
- 14           (A) [~~N~~] Not less than six months and [~~n~~] not more  
15 than one year imprisonment;
- 16           (B) A \$2,000 fine, to be deposited into the [state]  
17 drug and alcohol toxicology testing laboratory  
18 special fund; and
- 19           (C) Permanent revocation of the person's license and  
20 privilege to operate a vehicle; and



1           (4) In addition to a sentence imposed under paragraphs (1)  
2           through (3), any person who is convicted under this  
3           section and also convicted under section 291E-61 or  
4           291E-61.5, for an offense based on the same incident  
5           or arising from the same episode, shall be sentenced  
6           to terms of imprisonment for both offenses, which  
7           shall be served consecutively."

8           SECTION 7. Section 706-643, Hawaii Revised Statutes, is  
9           amended by amending subsection (2) to read as follows:

10           "(2) All fines and other final payments received by a  
11           clerk or other officer of a court shall be accounted for, with  
12           the names of persons making payment, and the amount and date  
13           thereof, being recorded. All such funds shall be deposited with  
14           the director of finance to the credit of the general fund of the  
15           State. With respect to fines and bail forfeitures that are  
16           proceeds of the wildlife revolving fund under section 183D-10.5;  
17           fines that are proceeds of the [state] drug and alcohol  
18           toxicology testing laboratory special fund under  
19           sections [~~291E-61(b)(2)(C)~~,] 291E-61(b)(2)(E),  
20           291E-61.5(c)(2)(C), and 291E-62(c); and fines that are proceeds  
21           of the compliance resolution fund under sections 26-9(o) and



1 431:2-410, the director of finance shall transmit the fines and  
2 forfeitures to the respective funds."

3 SECTION 8. There is appropriated out of the state highway  
4 fund of the State of Hawaii, the sum of \$ or so much  
5 thereof as may be necessary for fiscal year 2023-2024 and the  
6 same sum or so much as necessary for fiscal year 2024-2025 for  
7 deposit into the drug and alcohol toxicology testing laboratory  
8 special fund established by section 291E-8, Hawaii Revised  
9 Statutes, as amended by section 3 of this Act.

10 The sums appropriated shall be expended by the department  
11 of transportation for the purposes of this Act.

12 SECTION 9. There is appropriated out of the drug and  
13 alcohol toxicology testing laboratory special fund the sum of  
14 \$ or so much thereof as may be necessary for fiscal  
15 year 2023-2024 and the same sum or so much as necessary for  
16 fiscal year 2024-2025 for the establishment and maintenance of a  
17 drug and alcohol toxicology testing laboratory, including the  
18 costs of laboratory instrumentation, facility renovation and  
19 security upgrades, office furniture and supplies, laboratory  
20 equipment, and other purposes that support a drug and alcohol  
21 toxicology testing laboratory.



1           The sums appropriated shall be expended by the department  
2 of transportation or appropriated as a grant-in-aid to the city  
3 and county of Honolulu for the purposes of this Act.

4           SECTION 10. Any provision of this Act to the contrary  
5 notwithstanding, the appropriation for fiscal year 2023-2024  
6 authorized by section 9 of this Act shall not lapse at the end  
7 of the fiscal year for which the appropriation is made; provided  
8 that any unexpended and unencumbered balance of the  
9 appropriation made by section 9 this Act as of the close of  
10 business on June 30, 2025, shall lapse back to the credit of the  
11 state highway fund.

12           SECTION 11. No later than thirty days prior to the  
13 convening of each of the regular sessions of 2025 and 2026, the  
14 department of transportation and the city and county of Honolulu  
15 emergency services department shall submit to the legislature  
16 report on the expenditures made from the drug and alcohol  
17 toxicology testing laboratory special fund, including the  
18 amounts expended and the purpose of each expenditure as it  
19 relates to supporting the drug and alcohol toxicology testing  
20 laboratory.



1 SECTION 12. Act 196, Session Laws of Hawaii 2021, is  
2 amended as follows:

3 1. By amending section 9 to read:

4 "SECTION 9. The [~~state~~] drug and alcohol toxicology  
5 testing laboratory special fund established in section 291E- ,  
6 Hawaii Revised Statutes, shall be abolished and repealed on  
7 June 30, [~~2026~~] 2028, and any unencumbered remaining balances  
8 shall lapse to the [~~general fund~~] credit of the state highway  
9 fund."

10 2. By amending section 11 to read:

11 "SECTION 11. This Act shall take effect on July 1, 2021;  
12 provided that on June 30, [~~2026~~] 2028, sections 4, 5, 6, and 7  
13 of this Act shall be repealed and section 291E-61, 291E-61.5,  
14 291E 62, and 706-643, Hawaii Revised Statutes, shall be  
15 reenacted in the form in which it read on the day before the  
16 effective date of this Act."

17 SECTION 13. Act 216, Session Laws of Hawaii 2021, as  
18 amended by Act 94, Session Laws of Hawaii 2022, is amended by  
19 amending section 10 to read as follows:

20 "SECTION 10. This Act shall take effect on July 1, 2021;  
21 provided that the amendments made to sections 291E-61 and



1 291E-61.5, Hawaii Revised Statutes, by sections 5 and 6,  
2 respectively, of this Act shall not be repealed when those  
3 sections are reenacted on June 30, [~~2026~~] 2028, pursuant to  
4 section 11 of Act 196, Session Laws of Hawaii 2021[~~-~~], as  
5 amended by section 12 of Act \_\_\_\_\_, Session Laws of Hawaii 2023."

6 SECTION 14. Act 94, Session Laws of Hawaii 2022, is  
7 amended by amending section 7 to read as follows:

8 SECTION 7. This Act shall take effect on January 1, 2023;  
9 provided that the amendments made to sections 291E-61 and 291E-  
10 62, Hawaii Revised Statutes, by sections 1 and 2, respectively,  
11 of this Act shall not be repealed when those sections are  
12 reenacted on June 30, [~~2026~~] 2028, pursuant to section 11 of  
13 Act 196, Session Laws of Hawaii 2021[~~-~~], as amended by  
14 section 12 of Act \_\_\_\_\_, Session Laws of Hawaii 2023."

15 SECTION 15. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 16. This Act shall take effect on July 1, 2050;  
18 provided that sections 8 and 9 shall take effect on July 1,  
19 2050.



**Report Title:**

Drug and Alcohol Toxicology Testing Laboratory; DOT; Special Fund; Appropriations

**Description:**

Amends references to amends the administration of the State Drug and Alcohol Toxicology Testing Laboratory Special Fund. Appropriates funds to the Department of Transportation Highways Division to deposit state highway funds to the Drug and Alcohol Toxicology Testing Laboratory Special Fund. Effective 7/1/2050. (SD2)

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

