

---

# 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



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



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~~] university of Hawaii, the state community  
6 college system, or a federally sponsored personnel  
7 development and training program, under arrangements  
8 that ensure proper control and supervision of  
9 employees;

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

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

16 (7) Receive from a person, as payment or as a  
17 consideration for liquor, any personal or household  
18 goods, including clothing and food, or any implements  
19 of trade. Any person violating this paragraph shall  
20 be guilty of a misdemeanor and upon conviction shall  
21 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



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 286-305, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 **"§286-305 Contents and characteristics; form.** (a) Each  
13 identification card issued by the examiner of drivers shall  
14 display a distinguishing number assigned to the cardholder, and  
15 shall display the following inscription:

16 "HAWAII IDENTIFICATION CARD"

17 (b) The examiner of drivers, after obtaining the  
18 fingerprint of the applicant as provided in this part and after  
19 obtaining the information required by or pursuant to this part,  
20 shall issue to each applicant an identification card in a form  
21 and with identifying information that the director deems



1 necessary and appropriate, including a notation of veteran  
2 status, if desired by the applicant, on the front of the card  
3 where applicable; provided that [~~such~~] the notation shall not  
4 include any designation other than the term "veteran". As used  
5 in this subsection, "veteran" means any person who served in any  
6 of the uniformed services of the United States and was  
7 discharged under conditions other than dishonorable.

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

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

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

16 (f) An identification card issued to an individual who has  
17 been convicted for a violation of section 291E-61 or 291E-61.5  
18 and is prohibited from purchasing or publicly consuming liquor  
19 shall bear the notation "Liquor Restricted". The identification  
20 card shall be valid for a restriction period commencing on the  
21 date of revocation or conviction, whichever is earlier, and



1 ending on the end date of the revocation period. The issuance  
2 of an identification card pursuant to this subsection shall  
3 invalidate any prior identification card issued to the  
4 individual that does not bear the notation required by this  
5 subsection, regardless of the date of expiration listed on the  
6 identification card. An identification card issued pursuant to  
7 this subsection shall not be valid identification for the  
8 purchase of liquor."

9 SECTION 4. Section 287-20, Hawaii Revised Statutes, is  
10 amended by amending subsection (a) to read as follows:

11 "(a) Whenever a driver's license has been suspended or  
12 revoked:

13 (1) Pursuant to section 291E-65 or part III of chapter  
14 291E, except as provided in section [~~291E-41(f)~~],  
15 291E-41(g);

16 (2) Upon a conviction of any offense pursuant to law,  
17 except where the conduct giving rise to the instant  
18 offense is also a violation of part III of chapter  
19 291E and a requirement to furnish and maintain proof  
20 of financial responsibility has already been imposed  
21 pursuant to that part; or



1           (3) In the case of minors, pursuant to part V of chapter  
2                   571,  
3 the license shall not at any time thereafter be issued to the  
4 person whose license has been suspended or revoked, nor shall  
5 the person thereafter operate a motor vehicle, unless and until  
6 the person has furnished and thereafter maintains proof of  
7 financial responsibility; provided that this section shall not  
8 apply to a license suspended or revoked pursuant to section  
9 291E-61(b)(1) or 291E-64(b)(1), any conviction of a moving  
10 violation, any administrative license suspension pursuant to  
11 chapter 291A, or the first conviction within a five-year period  
12 for driving without a valid motor vehicle insurance policy.

13           This subsection shall not apply to a suspension or  
14 revocation of a provisional license under section 286-102.6(d)."

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

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

18           "(e) The notice shall state that, if the respondent's  
19 license and privilege to operate a vehicle is administratively  
20 revoked after the review, a decision shall be mailed to the  
21 respondent, or to the parent or guardian of the respondent if



1 the respondent is under the age of eighteen, that shall contain,  
2 at a minimum, the following information:

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

5 (2) That the respondent may request the director, within  
6 six days of the date the decision is mailed, to  
7 schedule an administrative hearing to review the  
8 administrative revocation;

9 (3) That, if the respondent's request for an  
10 administrative hearing is received by the director  
11 within six days of the date the decision was mailed,  
12 the hearing shall be scheduled to commence:

13 (A) No later than twenty-five days after the date of  
14 the issuance of the notice of administrative  
15 revocation in the case of an [~~alcohol-related~~]  
16 alcohol-related offense; and

17 (B) No later than thirty-nine days after the date of  
18 the issuance of the notice of administrative  
19 revocation in the case of a [~~drug-related~~]  
20 drug-related offense;

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



- 1           (5) That failure to request an administrative hearing  
2                   within the time provided shall cause the  
3                   administrative revocation to take effect for the  
4                   period and under the conditions established by the  
5                   director in the decision;
- 6           (6) That the respondent may regain the right to a hearing  
7                   by requesting the director, within sixty days after  
8                   the issuance of the notice of administrative  
9                   revocation, to schedule a hearing;
- 10          (7) That the director shall schedule the hearing to  
11                   commence no later than thirty days after a request  
12                   under paragraph (6) is received, but that, except as  
13                   provided in section 291E-38(j), the temporary permit  
14                   shall not be extended if the respondent fails to  
15                   request an administrative hearing within the initial  
16                   six-day period provided for that purpose;
- 17          (8) That failure to attend the hearing shall cause the  
18                   administrative revocation to take effect for the  
19                   period and under the conditions indicated;
- 20          (9) The duration of the administrative revocation and  
21                   other conditions that may be imposed, including[+]



1 referral to the driver's education program for an  
2 assessment of the respondent's substance abuse or  
3 dependence and the need for treatment; [~~and~~]

4 (10) That the respondent shall obtain an ignition interlock  
5 permit in order to operate a vehicle during the  
6 revocation period if the respondent had a valid  
7 license at the time of the arrest[-]; and

8 (11) That the respondent shall be prohibited from  
9 purchasing or publicly consuming liquor for a period  
10 commencing on the date that the administrative  
11 revocation of the respondent's license becomes  
12 effective."

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

14 "(h) The notice shall state that, if the administrative  
15 revocation is sustained at the hearing, a written decision shall  
16 be mailed to the respondent, or to the parent or guardian of the  
17 respondent if the respondent is under the age of eighteen, that  
18 shall contain, at a minimum, the following information:

- 19 (1) The effective date of the administrative revocation;
- 20 (2) The duration of the administrative revocation;



1 (3) Other conditions that may be imposed by law, including  
 2 the use of an ignition interlock device[?] and a  
 3 restriction period prohibiting the purchase or public  
 4 consumption of liquor; and

5 (4) The right to obtain judicial review."

6 SECTION 6. Section 291E-41, Hawaii Revised Statutes, is  
 7 amended to read as follows:

8 **"§291E-41 Effective date, conditions, and period of**  
 9 **administrative revocation; criteria.** (a) Unless an  
 10 administrative revocation is reversed or the temporary permit is  
 11 extended by the director, administrative revocation shall become  
 12 effective on the day specified in the notice of administrative  
 13 revocation. Except as provided in section 291E-44.5, no license  
 14 to operate a vehicle shall be restored under any circumstances  
 15 during the administrative revocation period. Upon completion of  
 16 the administrative revocation period, the respondent may reapply  
 17 and be reissued a license pursuant to section 291E-45.

18 (b) Except as provided in paragraphs (4)(A)(ii) and (5)  
 19 and in section 291E-44.5, the respondent shall keep an ignition  
 20 interlock device installed and operating in all vehicles  
 21 operated by the respondent during the revocation period. Except



1 as provided in section 291E-5, installation and maintenance of  
2 the ignition interlock device shall be at the respondent's  
3 expense. The periods of administrative revocation, with respect  
4 to a license to operate a vehicle, that shall be imposed under  
5 this part are as follows:

- 6 (1) A [~~one-year~~] one-year revocation of license to operate  
7 a vehicle, if the respondent's record shows no prior  
8 alcohol enforcement contact or drug enforcement  
9 contact during the ten years preceding the date the  
10 notice of administrative revocation was issued;
- 11 (2) A two-year revocation of license to operate a vehicle,  
12 if the respondent's record shows one prior alcohol  
13 enforcement contact or drug enforcement contact during  
14 the ten years preceding the date the notice of  
15 administrative revocation was issued;
- 16 (3) A four-year revocation of license to operate a  
17 vehicle, if the respondent's record shows two or more  
18 prior alcohol enforcement contacts or drug enforcement  
19 contacts during the ten years preceding the date the  
20 notice of administrative revocation was issued;
- 21 (4) For a respondent who is a highly intoxicated driver:



- 1 (A) If the respondent's record shows no prior alcohol
- 2 enforcement contact or drug enforcement contact
- 3 during the ten years preceding the date the
- 4 notice of administrative revocation was issued:
- 5 (i) An eighteen-month revocation of license to
- 6 operate a vehicle, with mandatory
- 7 installation of an ignition interlock device
- 8 in all vehicles operated by the respondent
- 9 during the revocation period; or
- 10 (ii) A two-year revocation of license to operate
- 11 a vehicle, without mandatory installation of
- 12 an ignition interlock device in all vehicles
- 13 operated by the respondent during the
- 14 revocation period;
- 15 (B) If the respondent's record shows one prior
- 16 alcohol enforcement contact or drug enforcement
- 17 contact during the ten years preceding the date
- 18 the notice of administrative revocation was
- 19 issued, a three-year revocation of license to
- 20 operate a vehicle, with mandatory installation of
- 21 an ignition interlock device in all vehicles



1           operated by the respondent during the revocation  
2           period; and

3           (C) If the respondent's record shows two or more  
4           prior alcohol enforcement contacts or drug  
5           enforcement contacts during the ten years  
6           preceding the date the notice of administrative  
7           revocation was issued, a six-year revocation of  
8           license to operate a vehicle, with mandatory  
9           installation of an ignition interlock device in  
10          all vehicles operated by the respondent during  
11          the revocation period;

12          (5) For respondents under the age of eighteen years who  
13          were arrested for a violation of section 291E-61 or  
14          291E-61.5, revocation of license and privilege to  
15          operate a vehicle for the appropriate revocation  
16          period provided in paragraphs (1) to (3) or in  
17          subsection (c); provided that the respondent shall be  
18          prohibited from driving during the period preceding  
19          the respondent's eighteenth birthday and shall  
20          thereafter be subject to the ignition interlock



1 requirement of this subsection for the balance of the  
2 revocation period; or

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

10 (A) The respondent shall be absolutely prohibited  
11 from driving during the revocation period and  
12 subject to the penalties provided by section  
13 291E-62 if the respondent drives during the  
14 revocation period; and

15 (B) The director shall not issue an ignition  
16 interlock permit to the respondent pursuant to  
17 section 291E-44.5;

18 provided that when more than one administrative revocation,  
19 suspension, or conviction arises out of the same arrest, it  
20 shall be counted as only one prior alcohol enforcement contact



1 or drug enforcement contact, whichever revocation, suspension,  
2 or conviction occurs later.

3 (c) If a respondent has refused to be tested after being  
4 informed:

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

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

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

14 (d) Whenever a license to operate a vehicle is  
15 administratively revoked under this part, the respondent shall  
16 be referred to the driver's education program for an assessment,  
17 by a certified substance abuse counselor, of the respondent's  
18 substance abuse or dependence and the need for treatment. The  
19 counselor shall submit a report with recommendations to the  
20 director. If the counselor's assessment establishes that the  
21 extent of the respondent's substance abuse or dependence



1 warrants treatment, the director shall so order. All costs for  
2 assessment and treatment shall be paid by the respondent.

3 (e) Whenever a license and privilege to operate a vehicle  
4 is administratively revoked under this part, the respondent  
5 shall be prohibited from purchasing or publicly consuming liquor  
6 for a restriction period commencing on the effective date of the  
7 administrative revocation. Any license, identification card,  
8 ignition interlock permit, or special permit that is issued to  
9 the respondent by a court pursuant to section 291E-61 or the  
10 director pursuant to section 291E-44.5 during the restriction  
11 period that authorizes the respondent to operate a vehicle owned  
12 by the respondent's employer shall bear the notation "Liquor  
13 Restricted" and shall not be accepted as a valid form of  
14 identification for the purchase of liquor.

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

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



1 SECTION 7. Section 291E-44.5, Hawaii Revised Statutes, is  
2 amended as follows:

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

4 "(a) Except as provided in subsection (b), upon proof that  
5 the respondent has installed an ignition interlock device in any  
6 vehicle the respondent operates and obtained motor vehicle  
7 insurance or self-insurance that complies with the requirements  
8 of section 431:10C-104 or 431:10C-105, the director shall issue  
9 an ignition interlock permit that will allow the respondent to  
10 drive a vehicle equipped with an ignition interlock device  
11 during the revocation period. An ignition interlock permit  
12 shall bear the notation "Liquor Restricted" and shall not be  
13 accepted as a valid form of identification for the purchase of  
14 liquor."

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

16 "(c) Except as provided in subsection (b), the director  
17 may issue a separate permit authorizing a respondent to operate  
18 a vehicle owned by the respondent's employer during the period  
19 of revocation without installation of an ignition interlock  
20 device if the respondent is gainfully employed in a position  
21 that requires driving and the respondent will be discharged if



1 prohibited from driving a vehicle not equipped with an ignition  
2 interlock device. A separate permit issued pursuant to this  
3 subsection shall bear the notation "Liquor Restricted" and shall  
4 not be accepted as a valid form of identification for the  
5 purchase of liquor."

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

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

9 (1) Only during specified hours of employment, not to  
10 exceed twelve hours per day, or the period of the  
11 specified assigned hours of work, and only for  
12 activities solely within the scope of the employment;

13 (2) Only the vehicles specified; and

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

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



1 SECTION 8. Section 291E-45, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

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

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

8 (2) Obtain a certified statement from the director  
9 indicating eligibility for relicensing and for  
10 renewing the privilege to operate a vessel;

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

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

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

18 (B) Renewing the privilege to operate a vessel, as  
19 may be provided in chapter 200 or rules adopted  
20 by the department of land and natural resources  
21 pursuant to section 200-24.



1       Any license issued or renewed pursuant to this subsection  
2 during the period that commences on the date the administrative  
3 revocation of the person's license became effective shall bear  
4 the notation "Liquor Restricted" and shall not be accepted as a  
5 valid form of identification for the purchase of liquor. A  
6 license that bears the notation "Liquor Restricted" shall expire  
7 on the date upon which the restriction period expires."

8       SECTION 9. Section 291E-61, Hawaii Revised Statutes, is  
9 amended as follows:

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

11       "(b) A person committing the offense of operating a  
12 vehicle under the influence of an intoxicant shall be sentenced  
13 without possibility of probation or suspension of sentence as  
14 follows:

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

19       (A) A fourteen-hour minimum substance abuse  
20               rehabilitation program, including education and



- 1                   counseling, or other comparable programs deemed
- 2                   appropriate by the court;
- 3           (B)   Revocation of license to operate a vehicle for no
- 4                   less than one year and no more than eighteen
- 5                   months;
- 6           (C)   Installation during the revocation period of an
- 7                   ignition interlock device on all vehicles
- 8                   operated by the person;
- 9           (D)   Any one or more of the following:
- 10                   (i)   Seventy-two hours of community service work;
- 11                   (ii)   No less than forty-eight hours and no more
- 12                   than five days of imprisonment; or
- 13                   (iii)   A fine of no less than \$250 and no more than
- 14                   \$1,000;
- 15           (E)   A surcharge of \$25 to be deposited into the
- 16                   neurotrauma special fund; [~~and~~]
- 17           (F)   A surcharge, if the court so orders, [~~or~~] of up
- 18                   to \$25 to be deposited into the trauma system
- 19                   special fund; and
- 20           (G)   A restriction period, commencing on the effective
- 21                   date of the license revocation period under



1                   subparagraph (B) or paragraph (3) or (4), as  
 2                   applicable, prohibiting the purchase or public  
 3                   consumption of liquor by the person, if deemed  
 4                   appropriate by the court;

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

7           (A) A substance abuse program of at least thirty-six  
 8           hours, including education and counseling, or  
 9           other comparable programs deemed appropriate by  
 10           the court;

11           (B) Revocation of license to operate a vehicle for no  
 12           less than two years and no more than three years;

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

16           (D) Either one of the following:

17           (i) [~~Ne~~] Not less than two hundred forty hours  
 18           of community service work; or

19           (ii) [~~Ne~~] Not less than five days and [~~ne~~] not  
 20           more than thirty days of imprisonment, of



1                   which at least forty-eight hours shall be  
2                   served consecutively;

3           (E) A fine of [~~no~~] not less than \$1,000 and [~~no~~] not  
4           more than \$3,000, to be deposited into the drug  
5           and alcohol toxicology testing laboratory special  
6           fund;

7           (F) A surcharge of \$25 to be deposited into the  
8           neurotrauma special fund; [~~and~~]

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

12           (H) A restriction period, commencing on the effective  
13           date of the license revocation period under  
14           subparagraph (A) or paragraph (3) or (5), as  
15           applicable, prohibiting the purchase or public  
16           consumption of liquor by the person, if deemed  
17           appropriate by the court;

18           (3) In addition to a sentence imposed under paragraphs (1)  
19           and (2), any person eighteen years of age or older who  
20           is convicted under this section and who operated a  
21           vehicle with a passenger, in or on the vehicle, who



1 was younger than fifteen years of age, shall be  
2 sentenced to an additional mandatory fine of \$500 and  
3 an additional mandatory term of imprisonment of  
4 forty-eight hours; provided that the total term of  
5 imprisonment for a person convicted under this  
6 paragraph shall not exceed the maximum term of  
7 imprisonment provided in paragraph (1) or (2), as  
8 applicable. Notwithstanding paragraphs (1) and (2),  
9 the revocation period for a person sentenced under  
10 this paragraph shall be ~~[nø]~~ not less than two years;

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



1 maximum term of imprisonment provided in paragraph  
2 (1). Notwithstanding paragraph (1), the revocation  
3 period for a person sentenced under this paragraph  
4 shall be [x] not less than eighteen months;

5 (5) In addition to a sentence under paragraph (2), for an  
6 offense that occurs within ten years of a prior  
7 conviction for an offense under this section, any  
8 person who is convicted under this section and was a  
9 highly intoxicated driver at the time of the subject  
10 incident shall be sentenced to an additional mandatory  
11 term of imprisonment of ten consecutive days and an  
12 additional mandatory revocation period of one year;  
13 provided that the total term of imprisonment for a  
14 person convicted under this paragraph shall not exceed  
15 the maximum term of imprisonment provided in paragraph  
16 (2), as applicable. Notwithstanding paragraph (2),  
17 the revocation period for a person sentenced under  
18 this paragraph shall be [x] not less than three  
19 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 the person's motion for early
- 15          termination a certified court abstract
- 16          establishing that the person was not sentenced to
- 17          any additional mandatory revocation period
- 18          pursuant to paragraph (3) or (4);
- 19          (D) Includes with the person's motion for early
- 20          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~~] confirms that the same  
19 person provided 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 2. By amending subsection (d) to read:

13 "(d) Except as provided in subsection (c), the court may  
14 issue a separate permit authorizing a defendant to operate a  
15 vehicle owned by the defendant's employer during the period of  
16 revocation without installation of an ignition interlock device  
17 if the defendant is gainfully employed in a position that  
18 requires driving and the defendant will be discharged if  
19 prohibited from driving a vehicle not equipped with an ignition  
20 interlock device. Any separate permit issued pursuant to this  
21 subsection to a person prohibited from purchasing or publicly



1 consuming liquor during the restriction period that commences on  
2 the effective date of the administrative revocation of the  
3 person's license shall bear the notation "Liquor Restricted" and  
4 shall not be accepted as a valid form of identification for the  
5 purchase of liquor. A separate permit that bears the notation  
6 "Liquor Restricted" shall expire no later than the date upon  
7 which the restriction period expires."

8 SECTION 10. Section 291E-61.5, Hawaii Revised Statutes, is  
9 amended by amending subsection (d) to read:

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

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

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

17 (A) Permanent revocation of license to operate a  
18 vehicle;

19 (B) [~~Ne~~] Not less than eighteen months imprisonment;

20 (C) A fine of [~~ne~~] not less than \$5,000 but [~~ne~~] not  
21 more than \$25,000; and



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

3 In addition to the foregoing, any vehicle owned and operated by  
4 the person who committed the offense shall be subject to  
5 forfeiture pursuant to chapter 712A. In addition to all other  
6 penalties provided, any person convicted under this section  
7 shall be prohibited, for a restriction period commencing on the  
8 effective date of the license revocation period under  
9 subparagraph (A), from purchasing or publicly consuming liquor,  
10 if deemed appropriate by the court."

11 SECTION 11. Section 291E-61.6, Hawaii Revised Statutes, is  
12 amended as follows:

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

14 "(b) Any person under subsection (a) may file a petition  
15 in the district court for permission to apply for an ignition  
16 interlock instruction permit that will allow the person to take  
17 the driving demonstration portion of the driver's license  
18 examination. The petition shall be filed with the clerk of the  
19 district court in the district in which the arrest occurred and  
20 shall be accompanied by the required filing fee for civil  
21 actions. The petition shall include the following:



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

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

11 (3) A proposed order.

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



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

10 Any ignition interlock instruction permit issued pursuant  
11 to this subsection to a person who is prohibited from purchasing  
12 or publicly consuming liquor during the restriction period that  
13 commences on the effective date of the administrative revocation  
14 of the person's license shall bear the notation "Liquor  
15 Restricted" and shall not be accepted as a valid form of  
16 identification for the purchase of liquor. An ignition  
17 interlock instruction permit that bears the notation "Liquor  
18 Restricted" shall expire no later than the date upon which the  
19 restriction period expires."

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



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

11           Any ignition interlock permit issued pursuant to this  
12 subsection to a person who is prohibited from purchasing or  
13 publicly consuming liquor during the restriction period that  
14 commences on the effective date of the administrative revocation  
15 of the person's license shall bear the notation "Liquor  
16 Restricted" and shall not be accepted as a valid form of  
17 identification for the purchase of liquor. An ignition  
18 interlock permit that bears the notation "Liquor Restricted"  
19 shall expire no later than the date upon which the restriction  
20 period expires."



1 SECTION 12. Section 712-1250.5, Hawaii Revised Statutes,  
2 is amended to read as follows:

3 "§712-1250.5 Promoting intoxicating liquor to a person  
4 under the age of twenty-one[?] or a restricted person. (1) A  
5 person, including any licensee as defined in section 281-1,  
6 commits the offense of promoting intoxicating liquor to a person  
7 under the age of twenty-one or a restricted person if the person  
8 recklessly:

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

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

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



- 1 (a) The intoxicating liquor provided to the person under  
2 the age of twenty-one or the restricted person was an  
3 ingredient in a medicine prescribed by a licensed  
4 physician for medical treatment of the person under  
5 the age of twenty-one[+] or the restricted person;
- 6 (b) The intoxicating liquor was provided to the person  
7 under the age of twenty-one as part of a ceremony of a  
8 recognized religion;
- 9 (c) The defendant provided the intoxicating liquor to the  
10 [person] :
- 11 (i) Person under the age of twenty-one with the  
12 belief, which was reasonable under the  
13 circumstances, that the person under the age of  
14 twenty-one had attained the age of twenty-one; or
- 15 (ii) Restricted person with the belief, which was  
16 reasonable under the circumstances, that the  
17 person was not a restricted person;
- 18 (d) The defendant provided the intoxicating liquor to the  
19 person under the age of twenty-one with the express  
20 consent of the parent or legal guardian and with the  
21 belief, which was reasonable under the circumstances,



1           that the person under the age of twenty-one would not  
2           consume any portion of the substance;

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

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

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

18          The fact that the defendant distributed or sold  
19          intoxicating liquor to a person under the age of twenty-one or a  
20          restricted person is prima facie evidence that the defendant



1 knew the transferee was a person under the age of twenty-one[7]  
2 or a restricted person, except as provided in subsection (2)(c).

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

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

11 SECTION 13. Section 712-1252, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "§712-1252 Knowledge of character, nature, or quantity of  
14 substance, or character or age of transferee; prima facie  
15 evidence. (1) The fact that a person engaged in the conduct  
16 specified by any section in this part is prima facie evidence  
17 that the person engaged in that conduct with knowledge of the  
18 character, nature, and quantity of the dangerous drug, harmful  
19 drug, detrimental drug, or intoxicating compounds possessed,  
20 distributed, or sold.



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

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

8           SECTION 14. This Act does not affect rights and duties  
9 that matured, penalties that were incurred, and proceedings that  
10 were begun before its effective date.

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

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

19           SECTION 17. This Act shall take effect on January 1, 2050.



**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. Takes effect 1/1/2050.  
(SD1)

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

