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# A BILL FOR AN ACT

RELATING TO TRANSPORTATION SAFETY.

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

1           SECTION 1. The legislature finds that vehicles having a  
2 hood height greater than forty inches are forty-five per cent  
3 more likely to kill pedestrians after striking them, because the  
4 impact is closer to the head or torso rather than with lower  
5 vehicles. The legislature also finds that the penalties for  
6 excessive speeding and driving while intoxicated may include  
7 fines or license suspension.

8           Accordingly, the purpose of this Act is to require:

- 9           (1) The examiner of drivers to test driver license  
10           applicants on knowledge of the dangers that larger  
11           motor vehicles, including trucks and sport utility  
12           vehicles, pose to pedestrians and bicyclists; and  
13           (2) Persons who commit the offense of excessive speeding  
14           or habitually operating a vehicle under the influence  
15           of an intoxicant to pass a driver's license  
16           examination following each offense pursuant to an  
17           order of the court.



1 SECTION 2. Section 286-108, Hawaii Revised Statutes, is  
2 amended as follows:

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

4 "(a) Except as provided in section 286-107.5(a) [~~7~~] or any  
5 other provision of this part, the examiner of drivers shall  
6 examine every applicant for a driver's license [~~7~~, ~~except as~~  
7 ~~otherwise provided in this part~~]. The examination shall include  
8 a test of:

- 9 (1) The applicant's eyesight and any further physical  
10 examination that the examiner of drivers finds  
11 necessary to determine the applicant's fitness to  
12 operate a motor vehicle safely upon the highways;
- 13 (2) The applicant's ability to understand highway signs  
14 regulating, warning, and directing traffic;
- 15 (3) The applicant's knowledge of the rules of the road  
16 based on the traffic laws of the State and the traffic  
17 ordinances of the county where the applicant resides  
18 or intends to operate a motor vehicle; provided that  
19 the examination shall specifically test the  
20 applicant's knowledge of the provisions of [~~section~~]  
21 sections 291C-121.5 and [~~section~~] 291C-137; [~~and~~]

1        (4) The applicant's knowledge of the dangers that large  
2        vehicles, including trucks, pose to pedestrians and  
3        bicyclists; and

4        [~~4~~] (5) The actual demonstration of ability to exercise  
5        ordinary and reasonable control in the operation of a  
6        motor vehicle.

7        The examinations shall be appropriate to the operation of the  
8        category of motor vehicle for which the applicant seeks to be  
9        licensed and shall be conducted as required by the director.

10       The examiner of drivers shall require every applicant to  
11       comply with section 286-102.5.

12       The examiner of drivers may waive the actual demonstration  
13       of ability to operate a motorcycle or motor scooter for any  
14       person who furnishes evidence, to the satisfaction of the  
15       examiner of drivers, that the person has completed the  
16       motorcycle education course approved by the director in  
17       accordance with section 431:10G-104.

18       For the purposes of this section, [~~the term~~] "applicant"  
19       does not include any person reactivating a license under section  
20       286-107.5(a)."

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



1           "(c) The examiner of drivers may waive the written or oral  
2 examination required under subsection (a)(2) [~~and~~], (3), and 4  
3 and the actual demonstration of ability to operate a motor  
4 vehicle for any person who:

5           (1) Is at least eighteen years of age and [~~who~~] possesses  
6 a valid driver's license issued to the applicant in  
7 any other state of the United States, the District of  
8 Columbia, the Commonwealth of Puerto Rico, American  
9 Samoa, Guam, a province of the Dominion of Canada, or  
10 the Commonwealth of the Northern Mariana Islands for  
11 the operation of vehicles in categories 1 through 3 of  
12 section 286-102;

13           (2) Has completed the same requirements as set forth in  
14 section 286-102.6(f) in another state and possesses a  
15 valid provisional license from that state; or

16           (3) Is at least eighteen years of age and [~~who~~] possesses  
17 a valid driver's license issued to the applicant in  
18 any jurisdiction for which the director has granted  
19 reciprocal licensing privileges in accordance with  
20 section 286-101.5 for the operation of vehicles in  
21 category (3) of section 286-102(b)."



1 SECTION 3. Section 291C-105, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§291C-105 Excessive speeding.** (a) No person shall drive  
4 a motor vehicle at a speed exceeding:

5 (1) The applicable state or county speed limit by thirty  
6 miles per hour or more; or

7 (2) Eighty miles per hour or more irrespective of the  
8 applicable state or county speed limit.

9 (b) For the purposes of this section, "the applicable  
10 state or county speed limit" means the maximum speed limit  
11 established:

12 (1) By county ordinance;

13 (2) By official signs placed by the director of  
14 transportation on highways under the director's  
15 jurisdiction; or

16 (3) Pursuant to section 291C-104 by the director of  
17 transportation or the counties for school zones and  
18 construction areas in their respective jurisdictions.

19 (c) Any person who violates subsection (a) shall be guilty  
20 of a petty misdemeanor and shall be sentenced as follows without  
21 the possibility of probation or suspension of sentence:



- 1 (1) For a first offense not preceded by a prior conviction  
2 for an offense under subsection (a) in the preceding  
3 five years:
- 4 (A) A fine of not less than \$500 and not more than  
5 \$1,000;
- 6 (B) Thirty-day prompt suspension of license and  
7 privilege to operate a vehicle during the  
8 suspension period, or the court may impose, in  
9 lieu of the thirty-day prompt suspension of  
10 license, a minimum fifteen-day prompt suspension  
11 of license with absolute prohibition from  
12 operating a vehicle and, for the remainder of the  
13 thirty-day period, a restriction on the license  
14 that allows the person to drive for limited work-  
15 related purposes;
- 16 (C) Attendance in a course of instruction in driver  
17 retraining;
- 18 (D) A surcharge of \$25 to be deposited into the  
19 neurotrauma special fund under section 321H-4;
- 20 (E) [A] If the court so orders, a surcharge of not  
21 more than \$100 to be deposited into the trauma



- 1 system special fund under section 321-22.5 [~~if~~  
2 ~~the court so orders~~];
- 3 (F) An assessment for driver education pursuant to  
4 section 286G-3; and
- 5 (G) Either one of the following:
- 6 (i) Thirty-six hours of community service work;  
7 or  
8 (ii) Not less than forty-eight hours and not more  
9 than five days of imprisonment; and
- 10 (2) For an offense that occurs within five years of a  
11 prior conviction for an offense under subsection (a):
- 12 (A) A fine of not less than \$750 and not more than  
13 \$1,000;
- 14 (B) Prompt suspension of license and privilege to  
15 operate a vehicle for a period of thirty days  
16 with an absolute prohibition from operating a  
17 vehicle during the suspension period;
- 18 (C) Attendance in a course of instruction in driver  
19 retraining;
- 20 (D) A surcharge of \$25 to be deposited into the  
21 neurotrauma special fund under section 321H-4;



- 1 (E) [A] If the court so orders, a surcharge of not  
2 more than \$100 to be deposited into the trauma  
3 system special fund under section 321-22.5 [~~if~~  
4 ~~the court so orders~~];
- 5 (F) An assessment for driver education pursuant to  
6 section 286G-3; and
- 7 (G) Either one of the following:
- 8 (i) Not less than one hundred twenty hours of  
9 community service work; or
- 10 (ii) Not less than five days but not more than  
11 fourteen days of imprisonment of which at  
12 least forty-eight hours shall be served  
13 consecutively.
- 14 (d) Notwithstanding subsection (c), any person who  
15 violates subsection (a) within five years of two prior  
16 convictions for the same offense shall be guilty of a  
17 misdemeanor and shall be sentenced as follows without the  
18 possibility of probation or suspension of sentence:
- 19 (1) A mandatory minimum jail sentence of thirty days;



- 1 (2) Revocation of license and privilege to operate a  
2 vehicle for a period of not less than ninety days but  
3 not more than six months;
- 4 (3) Attendance in a course of instruction in driver  
5 retraining;
- 6 (4) A surcharge of \$25 to be deposited into the  
7 neurotrauma special fund under section 321H-4;
- 8 (5) A surcharge of not more than \$100 to be deposited into  
9 the trauma system special fund under section 321-22.5,  
10 if the court so orders;
- 11 (6) An assessment for driver education pursuant to section  
12 286G-3; and
- 13 (7) That the vehicle used in the commission of the offense  
14 be subject to forfeiture under chapter 712A, if the  
15 court so orders."

16 (e) In addition to any penalties imposed by this section,  
17 the court shall order that any person who violates this section  
18 pass a driver's license examination as provided in section  
19 286-108 in the manner and within the time ordered by the court."

20 SECTION 4. Section 291E-61.5, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§291E-61.5   Habitually operating a vehicle under the  
2 influence of an intoxicant.   (a)   A person commits the offense  
3 of habitually operating a vehicle under the influence of an  
4 intoxicant if:

5           (1)   The person is a habitual operator of a vehicle while  
6                under the influence of an intoxicant; and

7           (2)   The person operates or assumes actual physical control  
8                of a vehicle:

9                (A)   While under the influence of alcohol in an amount  
10                sufficient to impair the person's normal mental  
11                faculties or ability to care for the person and  
12                guard against casualty;

13               (B)   While under the influence of any drug that  
14                impairs the person's ability to operate the  
15                vehicle in a careful and prudent manner;

16               (C)   With .08 or more grams of alcohol per two hundred  
17                ten liters of breath; or

18               (D)   With .08 or more grams of alcohol per one hundred  
19                milliliters or cubic centimeters of blood.

20           (b)   Habitually operating a vehicle while under the  
21 influence of an intoxicant [~~is~~] shall be a class C felony.



1 (c) For a conviction under this section, the sentence  
2 shall be either:

3 (1) An indeterminate term of imprisonment of five years;  
4 or

5 (2) A term of probation of five years, with conditions to  
6 include:

7 (A) Mandatory revocation of license to operate a  
8 vehicle for a period [~~no~~] not less than three  
9 years but [~~no~~] not more than five years, with  
10 mandatory installation of an ignition interlock  
11 device in all vehicles operated by the respondent  
12 during the revocation period;

13 (B) [~~Not~~] Not less than ten days imprisonment, of  
14 which at least forty-eight hours shall be served  
15 consecutively;

16 (C) A fine of [~~no~~] not less than \$2,000 but [~~no~~] not  
17 more than \$5,000, to be deposited into the drug  
18 and alcohol toxicology testing laboratory special  
19 fund;

20 (D) Referral to a certified substance abuse counselor  
21 as provided in subsection (e);



- 1 (E) A surcharge of \$25 to be deposited into the
- 2 neurotrauma special fund; and
- 3 (F) A surcharge of up to \$50 to be deposited into the
- 4 trauma system special fund if the court so
- 5 orders.

6 In addition to the foregoing, any vehicle owned and operated by  
7 the person committing the offense shall be subject to forfeiture  
8 pursuant to chapter 712A.

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

- 13 (1) An indeterminate term of imprisonment of ten years; or
- 14 (2) A term of probation of five years, with conditions to
- 15 include the following:
  - 16 (A) Permanent revocation of license to operate a
  - 17 vehicle;
  - 18 (B) ~~[No]~~ Not less than eighteen months imprisonment;
  - 19 (C) A fine of ~~[no]~~ not less than \$5,000 but ~~[no]~~ not
  - 20 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.

6 (e) Whenever a court sentences a person under this  
7 section, it shall also require that the offender be referred to  
8 the driver's education program for an assessment, by a certified  
9 substance abuse counselor, of the offender's substance abuse or  
10 dependence and the need for appropriate treatment. The  
11 counselor shall submit a report with recommendations to the  
12 court. The court shall require the offender to obtain  
13 appropriate treatment if the counselor's assessment establishes  
14 the offender's substance abuse or dependence. All costs for  
15 assessment and treatment shall be borne by the offender.

16 (f) Notwithstanding any other law to the contrary,  
17 whenever a court revokes a person's driver's license pursuant to  
18 this section, the examiner of drivers shall not grant to the  
19 person a new driver's license until expiration of the period of  
20 revocation determined by the court. After the period of  
21 revocation is complete, and subject to subsection (h), the



1 person may apply for and the examiner of drivers may grant to  
2 the person a new driver's license.

3 (g) Any person sentenced under this section may be ordered  
4 to reimburse the county for the cost of any blood or urine tests  
5 conducted pursuant to section 291E-11. The court shall order  
6 the person to make restitution in a lump sum, or in a series of  
7 prorated installments, to the police department or other agency  
8 incurring the expense of the blood or urine test.

9 (h) In addition to any other penalty imposed by this  
10 section, the court shall order that any person convicted of  
11 violating this section pass a driver's license examination as  
12 provided in section 286-108 in the manner and within the time  
13 ordered by the court.

14 [~~h~~] (i) [~~As used in~~] For the purposes of this section:

15 "Convicted one or more times for offenses of habitually  
16 operating a vehicle under the influence" means that, at the time  
17 of the behavior for which the person is charged under this  
18 section, the person had one or more times within ten years of  
19 the instant offense:

20 (1) A judgment on a verdict or a finding of guilty, or a  
21 plea of guilty or nolo contendere, for a violation of



1           this section or section 291-4.4 as that section was in  
2           effect on December 31, 2001;

3           (2) A judgment on a verdict or a finding of guilty, or a  
4           plea of guilty or nolo contendere, for an offense that  
5           is comparable to this section or section 291-4.4 as  
6           that section was in effect on December 31, 2001; or

7           (3) An adjudication of a minor for a law or probation  
8           violation that, if committed by an adult, would  
9           constitute a violation of this section or section  
10          291-4.4 as that section was in effect on December 31,  
11          2001,

12         that, at the time of the instant offense, had not been expunged  
13         by pardon, reversed, or set aside. All convictions that have  
14         been expunged by pardon, reversed, or set aside before the  
15         instant offense shall not be deemed prior convictions for the  
16         purposes of proving the person's status as a habitual operator  
17         of a vehicle while under the influence of an intoxicant.

18         "Convicted two or more times for offenses of operating a  
19         vehicle under the influence" means that, at the time of the  
20         behavior for which the person is charged under this section, the



1 person had two or more times within ten years of the instant  
2 offense:

3 (1) A judgment on a verdict or a finding of guilty, or a  
4 plea of guilty or nolo contendere, for a violation of  
5 section 291E-61 or 707-702.5;

6 (2) A judgment on a verdict or a finding of guilty, or a  
7 plea of guilty or nolo contendere, for an offense that  
8 is comparable to section 291E-61 or 707-702.5; or

9 (3) An adjudication of a minor for a law or probation  
10 violation that, if committed by an adult, would  
11 constitute a violation of section 291E-61 or  
12 707-702.5,

13 that, at the time of the instant offense, had not been expunged  
14 by pardon, reversed, or set aside. All convictions that have  
15 been expunged by pardon, reversed, or set aside before the  
16 instant offense shall not be deemed prior convictions for the  
17 purposes of proving that the person is a habitual operator of a  
18 vehicle while under the influence of an intoxicant.

19 "Examiner of drivers" has the same meaning as provided in  
20 section 286-2.



1 "Habitual operator of a vehicle while under the influence  
2 of an intoxicant" means that the person was convicted:

3 (1) Two or more times for offenses of operating a vehicle  
4 under the influence; or

5 (2) One or more times for offenses of habitually operating  
6 a vehicle under the influence."

7 SECTION 5. This Act does not affect rights and duties that  
8 matured, penalties that were incurred, and proceedings that were  
9 begun before its effective date.

10 SECTION 6. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 7. This Act shall take effect upon its approval.



**Report Title:**

Driver's License; License Examination; Excessive Speeding; DUI; Penalties

**Description:**

Requires testing of driver license applicants on the dangers that larger motor vehicles present to pedestrians and bicyclists. Requires persons who commit the offense of excessive speeding or habitually driving while intoxicated to pass the driver license examination for each offense pursuant to an order of the court. (SD1)

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

