

ACT 251

S.B. NO. 2147-82

A Bill for an Act Relating to Traffic Violations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 291-4, Hawaii Revised Statutes, is amended to read as follows:

“§291-4 Driving under influence of intoxicating liquor. (a) Whoever operates or assumes actual physical control of the operation of any vehicle while under the influence of intoxicating liquor shall be [fined not more than \$1,000 or imprisoned not more than one year, or both.] sentenced as follows without possibility of probation or suspension of sentence:

- (1) For a first offense, or any offense not preceded within a four-year period by a conviction under this section, by:**
 - (A) A fourteen-hour minimum alcohol abuse rehabilitation program including education and counseling, or other comparable program deemed appropriate by the court; and**
 - (B) Any two of the following:**
 - (I) Seventy-two hours of community service work;**
 - (II) Thirty-day suspension of license;**
 - (III) Forty-eight hours of imprisonment;**
- (2) For an offense which occurs within four years of a prior conviction under this section, by any two of the following:**
 - (A) A fine of not less than \$250 but not more than \$1,000 or not less than 72 hours but not more than 150 hours of community service work;**
 - (B) Ninety-day suspension of license;**
 - (C) Not less than two days but not more than ten days of imprisonment;**
- (3) For an offense which occurs within four years of two prior convictions under this section, by:**
 - (A) A fine of not less than \$500 but not more than \$1,000; and**
 - (B) Revocation of license for a period not less than one year but not**

more than five years; and

(C) Not less than 10 days but not more than 180 days imprisonment.

(b) Notwithstanding any other law to the contrary, whenever a court revokes a person's driver's license pursuant to the provisions of this section, the examiner of drivers shall not grant to such person an application for a new driver's license for such period as specified by the court.

(c) As used in this section the terms "driver," "driver's license," "examiner of drivers," and "vehicle" shall have the same meanings as provided in section 286-2."

SECTION 2. Section 286-126, Hawaii Revised Statutes, is amended to read as follows:

"§286-126 Period of suspension or revocation. [A] Unless otherwise provided by law, a court of competent jurisdiction shall not suspend a license for a longer period than one year; and when a court has revoked a license, the examiner of drivers shall not in any event grant an application for new license until the expiration of one year after the date of the revocation."

SECTION 3. Section 286-130, Hawaii Revised Statutes, is amended to read as follows:

"§286-130 No operation under foreign license during revocation or suspension in this State. Any resident or nonresident whose driver's license or right or privilege to operate a motor vehicle in this State has been suspended or revoked [as provided in this part] shall not operate a motor vehicle in this State under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during the suspension or after the revocation until a new license issued by the examiner of drivers is obtained when and as permitted [under this part.] by law.

SECTION 4. Section 286-132, Hawaii Revised Statutes, is amended to read as follows:

"§286-132 Driving while license suspended or revoked; penalty. Any person whose driver's license, or driving privilege as a nonresident has been canceled, suspended, or revoked [as provided in this part], and who drives any motor vehicle upon the highways of this State while such license or privilege remains canceled, suspended, or revoked, shall be fined not less than [\$25 nor] \$250 but not more than \$1,000 or imprisoned not more than one year."

SECTION 5. Section 286-155, Hawaii Revised Statutes, is amended to read as follows:

"§286-155 Revocation of privilege to drive motor vehicle upon refusal to submit to testing. (a) If a person under arrest refuses to submit to a breath or blood test, none shall be given, except as provided in section 286-163, but the arresting officer shall, as soon as practicable, submit an affidavit to a district judge of the circuit in which the arrest was made, stating:

- (1) That at the time of the arrest, the arresting officer had reasonable grounds to believe the arrested person had either been driving or was in actual physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor;
- (2) That the arrested person had been informed of the sanctions of this section; and

(3) That the person had refused to submit to a breath or blood test.

(b) Upon receipt of the affidavit, the district judge shall hold a hearing as provided in section 286-156, and shall determine whether the statements contained in the affidavit are true and correct. If the district judge finds the statements contained in the affidavit are true, the judge shall revoke the arrested person's license, permit, or any nonresident operating privilege for a period of [six] twelve months.

(c) If the arrested person is a resident without a license or permit to operate a motor vehicle in the State, the district judge shall send notice of the results of the hearing to the examiners of drivers of all counties. The examiners of drivers shall deny the person the issuance of a license or permit for the period of [six] twelve months.

The penalties provided by this section are additional penalties and not substitutes for other penalties provided by law."

SECTION 6. This Act does not affect rights which matured, penalties which were incurred, or proceedings which were begun before its effective date.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 8. This Act shall take effect upon its approval. Any conviction prior to the effective date shall not be a prior conviction under this Act.

(Approved June 15, 1982.)