

ACT 90

S.B. NO. 843

A Bill for an Act Relating to Refusal to Submit to a Breath or Blood Test.

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

SECTION 1. 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 twelve months.] as follows:

- (1) For a first revocation, or any revocation not preceded within a five-year period by a revocation under this section, for a period of twelve months; and
- (2) For any subsequent revocation under this section, for a period not less than two years and not more than five years.

(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 [twelve months.] revocation imposed by the district judge under subsection (b).

(d) Whenever a court penalizes a person under this section, it shall also require that the person be referred to a substance abuse counselor who has been certified pursuant to section 321-193 for an assessment of the person's alcohol dependence and the need for treatment. The counselor shall submit a report with recommendations to the court. The court may require the person to obtain appropriate treatment. All costs for such assessment or treatment or both shall be borne by the penalized person.

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

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 10, 1985.)