

ACT 72

H.B. NO. 1010

A Bill for an Act Relating to the Use of Intoxicants.

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

SECTION 1. Section 291E-21, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) In the event of a collision resulting in injury or death and if a law enforcement officer has probable cause to believe that a person involved in the collision has committed a violation of section 707-702.5, 707-703, 707-704, 707-705, 707-706, ~~[or] 291E-61, or 291E-64~~, the law enforcement officer shall request that a sample of blood or urine be recovered from the vehicle operator or any other person suspected of committing a violation of section 707-702.5, 707-703, 707-704, 707-705, 707-706, ~~[or] 291E-61[-], or 291E-64~~. If the person involved in the collision is not injured or refuses to be treated for any injury, the law enforcement officer may offer the person a breath test in lieu of a blood or urine test. If the person declines to perform a breath test, the law enforcement officer shall request a blood or urine sample pursuant to subsection (d). The act of declining to perform a breath test under this section shall not be treated as a refusal under chapter 291E and shall not relieve the declining person from the requirement of providing a blood or urine sample under this section.

(d) The law enforcement officer shall make the request under subsection (c) to the hospital or medical facility treating the person from whom the blood or urine is to be recovered. If the person is not injured or refuses to be treated for any injury, the law enforcement officer shall make the request of a blood or urine sample under subsection (c) to a person authorized under section 291E-12; provided that a law enforcement officer may transport that person to another police facility or a hospital or medical facility that is capable of conducting a breath, blood, or urine test. Upon the request of the law enforcement officer that blood or urine be recovered pursuant to this section, and except where the person to perform the withdrawal of a blood sample or to obtain a urine sample or the responsible attending personnel at the hospital or medical facility determines in good faith that recovering or attempting to recover blood or urine from the person presents an imminent threat to the health of the medical personnel or others, the [hospital or medical facility] person authorized under section 291E-12 shall:

- (1) ~~[Assign a person authorized under section 291E-12 to withdraw the blood sample or to obtain the urine;~~
- (2) Recover the sample in compliance with section 321-161; and
- (3) (2) Provide the law enforcement officer with the blood or urine sample requested.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

ACT 72

SECTION 3. Statutory material to be repealed is bracketed and stricken.
New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 2004.

(Approved May 20, 2003.)