

ACT 194

H.B. NO. 919

A Bill for an Act Relating to Use of Intoxicants.

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

SECTION 1. Section 291E-61, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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

- (1) For the first offense, or any offense not preceded within a five-year period by a conviction for an offense under this section or section 291E-4(a):
 - (A) A fourteen-hour minimum substance abuse rehabilitation program, including education and counseling, or other comparable program deemed appropriate by the court;
 - (B) Ninety-day prompt suspension of license and privilege to operate a vehicle during the suspension period, or the court may impose, in lieu of the ninety-day prompt suspension of license, a minimum thirty-day prompt suspension of license with absolute prohibition from operating a vehicle and, for the remainder of the ninety-day period, a restriction on the license that allows the person to drive for limited work-related purposes and to participate in substance abuse treatment programs;
 - (C) Any one or more of the following:
 - (i) Seventy-two hours of community service work;
 - (ii) Not less than forty-eight hours and not more than five days of imprisonment; or

- (iii) A fine of not less than \$150 but not more than \$1,000; and
- (D) A surcharge of \$25 to be deposited into the neurotrauma special fund;
- (2) For an offense that occurs within five years of a prior conviction for an offense under this section or section 291E-4(a) by:
 - (A) Prompt suspension of license and privilege to operate a vehicle for a period of one year with an absolute prohibition from operating a vehicle during the suspension period;
 - (B) Either one of the following:
 - (i) Not less than two hundred forty hours of community service work; or
 - (ii) Not less than five days but not more than fourteen days of imprisonment of which at least forty-eight hours shall be served consecutively;
 - (C) A fine of not less than \$500 but not more than \$1,500; and
 - (D) A surcharge of \$25 to be deposited into the neurotrauma special fund;
- (3) For an offense that occurs within five years of two prior convictions for offenses under this section or section 291E-4(a):
 - (A) A fine of not less than \$500 but not more than \$2,500;
 - (B) Revocation of license and privilege to operate a vehicle for a period not less than one year but not more than five years;
 - (C) Not less than ten days but not more than thirty days imprisonment of which at least forty-eight hours shall be served consecutively; and
 - (D) A surcharge of \$25 to be deposited into the neurotrauma special fund; and
 - (E) Forfeiture under chapter 712A of the vehicle owned and operated by the person committing the offense, provided that the department of transportation shall provide storage for vehicles forfeited under this subsection; and
- (4) Any person eighteen years of age or older who is convicted under this section and who operated a vehicle with a passenger, in or on the vehicle, who was younger than fifteen years of age, shall be sentenced to an additional mandatory fine of \$500 and an additional mandatory term of imprisonment of forty-eight hours; provided that the total term of imprisonment for a person convicted under this paragraph and paragraph (1), (2), or (3) shall not exceed thirty days.’’

SECTION 2. Section 291E-61.5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) For a conviction under this section, the sentence shall be either:

- (1) An indeterminate term of imprisonment of five years; or
- (2) A term of probation of five years, with conditions to include:
 - (A) Mandatory revocation of license and privilege to operate a vehicle for a period not less than one year but not more than five years;
 - (B) Not less than ten days imprisonment, of which at least forty-eight hours shall be served consecutively;
 - (C) Referral to a certified substance abuse counselor as provided in section 291E-61(d); and
 - (D) A surcharge of \$25 to be deposited into the neurotrauma special fund.

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In addition to the foregoing, any vehicle owned and operated by the person committing the offense shall be subject to forfeiture pursuant to chapter 712A, provided that the department of transportation shall provide storage for vehicles forfeited under this subsection.”

SECTION 3. This Act shall not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 5, 2005.)