

ACT 48

S.B. NO. 2163

A Bill for an Act Relating to Negligent Homicide.

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

SECTION 1. The legislature finds that impairment by drugs and alcohol is a factor in many traffic fatalities in Hawaii. Those killed in drunk driving crashes are given a death sentence. A federal study reviewing data over a three year period found drivers convicted of driving under the influence of alcohol are at least 1.8 times more likely to be in fatal crashes and at least four times as likely to be in fatal crashes involving high blood or breath alcohol levels compared to drivers without prior convictions. According to the National Highway Traffic Safety Administration, motor vehicle crashes that involve an alcohol-impaired driver kill twenty-eight people in the United States every day, amounting to one death every fifty-three minutes. The Centers for Disease Control and Prevention estimates the annual cost of alcohol-related crashes to be greater than forty-four billion dollars. The legislature further finds that existing penalties need to be addressed to deter drivers from repeatedly operating their vehicles under the

influence of drugs and alcohol and at increased blood or breath alcohol levels to help prevent more traffic fatalities and save lives.

The purpose of this Act is to elevate the penalty of negligent homicide in the first degree from a class B felony to a class A felony when certain conditions are met.

SECTION 2. Section 707-702.5, Hawaii Revised Statutes, is amended to read as follows:

“§707-702.5 Negligent homicide in the first degree. (1) A person commits the offense of negligent homicide in the first degree if that person causes the death of:

- (a) Another person by the operation of a vehicle in a negligent manner while under the influence of drugs or alcohol; or
- (b) A vulnerable user by the operation of a vehicle in a negligent manner.

(2) ~~[Negligent homicide in the first degree is a class B felony.]~~ A person who violates subsection (1)(a) shall be guilty of a class B felony; provided that the person shall be guilty of a class A felony when the person:

- (a) Has been convicted one or more times for the offense of operating a vehicle under the influence within fifteen years of the instant offense;
- (b) Is, at the time of the instant offense, engaging in conduct that would constitute a violation of section 291E-62; or
- (c) Is a highly intoxicated driver as defined by section 291E-1.
- (3) A person who violates subsection (1)(b) shall be guilty of a class B

felony.

(4) Notwithstanding sections 706-620(2), 706-640, 706-641, 706-659, and any other law to the contrary, the sentencing court may impose a lesser sentence for a person convicted of a class A felony under this section if the court finds that strong mitigating circumstances warrant the action. Strong mitigating circumstances shall include but not be limited to the provisions of section 706-621. The court shall provide a written opinion stating its reasons for imposing the lesser sentence.

(5) For the purposes of this section, a person “has been convicted one or more times for the offense of operating a vehicle under the influence” if the person has one or more:

- (a) Convictions under section 291E-4(a), 291E-61, 291E-61.5, or 291E-64;
- (b) Convictions in any other state or federal jurisdiction for an offense that is comparable to operating or being in physical control of a vehicle while having either an unlawful alcohol concentration or an unlawful drug content in the blood or urine or while under the influence of an intoxicant or habitually operating a vehicle under the influence of an intoxicant; or
- (c) Adjudications of a minor for a law violation that, if committed by an adult, would constitute a violation of section 291E-4(a), 291E-61, or 291E-61.5,

that, at the time of the instant offense, had not been expunged by pardon, reversed, or set aside. All convictions that have been expunged by pardon, reversed, or set aside before the instant offense shall not be deemed prior convictions for the purposes of this section.”

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

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

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

(Approved June 17, 2022.)