
A BILL FOR AN ACT

RELATING TO USE OF INTOXICANTS WHILE OPERATING A MOTOR VEHICLE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 291E-1, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Highly intoxicated driver" means a person whose
5 measurable amount of alcohol is 0.15 or more grams of alcohol
6 per one hundred milliliters or cubic centimeters of the person's
7 blood or 0.15 or more grams of alcohol per two hundred ten
8 liters of the person's breath, as measured at the time of the
9 offense, or within three hours of time of the offense."

10 SECTION 2. Section 291E-31, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§291E-31 Notice of administrative revocation; effect.** As
13 used in this part, the notice of administrative revocation:

14 (1) Establishes that the respondent's license and
15 privilege to operate a vehicle in the State or on or
16 in the waters of the State shall be terminated:



1 (A) Thirty days after the date the notice of
2 administrative revocation is issued in the case
3 of an alcohol related offense;

4 (B) Forty-four days after the date the notice of
5 administrative revocation is issued in the case
6 of a drug related offense; or

7 (C) Such later date as is established by the director
8 under section 291E-38,

9 if the director administratively revokes the
10 respondent's license and privilege;

11 (2) Establishes that the registration of any motor vehicle
12 registered to a respondent who is a repeat intoxicated
13 driver or a highly intoxicated driver shall be
14 terminated thirty days after the date of an arrest
15 pursuant to section 291E-33(c);

16 (3) Establishes the date on which administrative
17 revocation proceedings against the respondent were
18 initiated; and

19 (4) Serves as a temporary permit, if applicable, to
20 operate a vehicle as provided in section 291E-33."

21 SECTION 3. Section 291E-33, Hawaii Revised Statutes, is
22 amended by amending subsection (c) to read as follows:



1 "(c) Whenever a respondent under this section is a repeat
2 intoxicated driver[~~7~~] or highly intoxicated driver, the
3 arresting law enforcement officer shall take possession of the
4 motor vehicle registration and, if the motor vehicle being
5 driven by the respondent is registered to the respondent, remove
6 the number plates and issue a temporary motor vehicle
7 registration and temporary number plates for the motor vehicle.
8 No temporary motor vehicle registration or temporary number
9 plates shall be issued if the respondent's registration has
10 expired or been revoked. The applicable police department, upon
11 determining that the respondent is a repeat intoxicated
12 driver[~~7~~] or highly intoxicated driver, shall notify the
13 appropriate county director of finance to enter a stopper on the
14 motor vehicle registration files to prevent the respondent from
15 conducting any motor vehicle transactions, except as permitted
16 under this part."

17 SECTION 4. Section 291E-41, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) The periods of administrative revocation with respect
20 to a license and privilege to operate a vehicle, and motor
21 vehicle registration if applicable, that shall be imposed under
22 this part are as follows:



1 (1) A minimum of three months up to a maximum of one year
2 revocation of license and privilege to operate a
3 vehicle, if the respondent's record shows no prior
4 alcohol enforcement contact or drug enforcement
5 contact during the five years preceding the date the
6 notice of administrative revocation was issued;

7 (2) A six-month revocation of license and privilege to
8 operate a vehicle and of the registration of any motor
9 vehicle registered to the respondent, if the
10 respondent is found to be a highly intoxicated driver;

11 [~~+2~~] (3) A minimum of one year up to a maximum of two
12 years revocation of license and privilege to operate a
13 vehicle and of the registration of any motor vehicle
14 registered to the respondent, if the respondent's
15 record shows one prior alcohol enforcement contact,
16 [~~or~~] drug enforcement contact during the five years
17 preceding the date the notice of administrative
18 revocation was issued;

19 [~~+3~~] (4) A minimum of two years up to a maximum of four
20 years revocation of license and privilege to operate a
21 vehicle and of the registration of any motor vehicle
22 registered to the respondent, if the respondent's

1 record shows two prior alcohol enforcement contacts or
2 drug enforcement contacts during the seven years
3 preceding the date the notice of administrative
4 revocation was issued;

5 [~~4~~] (5) Lifetime revocation of license and privilege to
6 operate a vehicle and of the registration of any motor
7 vehicle registered to the respondent and a lifetime
8 prohibition on any subsequent registration of motor
9 vehicles by the respondent, if the respondent's record
10 shows three or more prior alcohol enforcement contacts
11 or drug enforcement contacts during the ten years
12 preceding the date the notice of administrative
13 revocation was issued; or

14 [~~5~~] (6) For respondents under the age of eighteen years
15 who were arrested for a violation of section 291E-61
16 or 291E-61.5, revocation of license and privilege to
17 operate a vehicle either for the period remaining
18 until the respondent's eighteenth birthday or, if
19 applicable, for the appropriate revocation period
20 provided in paragraphs (1) to (4) or in subsection
21 (d), whichever is longer and such respondents shall
22 not qualify for a conditional permit;



1 provided that when more than one administrative revocation,
2 suspension, or conviction arises out of the same arrest, it
3 shall be counted as only one prior alcohol enforcement contact
4 or drug enforcement contact, whichever revocation, suspension,
5 or conviction occurs later."

6 SECTION 5. Section 291E-61, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

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

12 (1) For the first offense, or any offense not preceded
13 within a five-year period by a conviction for an
14 offense under this section or section 291E-4(a):

15 (A) A fourteen-hour minimum substance abuse
16 rehabilitation program, including education and
17 counseling, or other comparable program deemed
18 appropriate by the court;

19 (B) Ninety-day prompt suspension of license and
20 privilege to operate a vehicle during the
21 suspension period, or the court may impose, in
22 lieu of the ninety-day prompt suspension of



1 license, a minimum thirty-day prompt suspension
2 of license with absolute prohibition from
3 operating a vehicle and, for the remainder of the
4 ninety-day period, a restriction on the license
5 that allows the person to drive for limited
6 work-related purposes and to participate in
7 substance abuse treatment programs;

8 (C) Any one or more of the following:

9 (i) Seventy-two hours of community service work;

10 (ii) Not less than forty-eight hours and not more
11 than five days of imprisonment; or

12 (iii) A fine of not less than \$150 but not more
13 than \$1,000; and

14 (D) A surcharge of \$25 to be deposited into the
15 neurotrauma special fund;

16 (2) For an offense committed by a highly intoxicated
17 driver, or that occurs within five years of a prior
18 conviction for an offense under this section or
19 section 291E-4(a) by:

20 (A) Prompt suspension of license and privilege to
21 operate a vehicle for a period of one year with



- 1 an absolute prohibition from operating a vehicle
2 during the suspension period;
- 3 (B) Either one of the following:
- 4 (i) Not less than two hundred forty hours of
5 community service work; or
- 6 (ii) Not less than five days but not more than
7 fourteen days of imprisonment of which at
8 least forty-eight hours shall be served
9 consecutively;
- 10 (C) A fine of not less than \$500 but not more than
11 \$1,500; and
- 12 (D) A surcharge of \$25 to be deposited into the
13 neurotrauma special fund;
- 14 (3) For an offense that occurs within five years of two
15 prior convictions for offenses under this section or
16 section 291E-4(a):
- 17 (A) A fine of not less than \$500 but not more than
18 \$2,500;
- 19 (B) Revocation of license and privilege to operate a
20 vehicle for a period not less than one year but
21 not more than five years;



1 (C) Not less than ten days but not more than thirty
2 days imprisonment of which at least forty-eight
3 hours shall be served consecutively; and

4 (D) A surcharge of \$25 to be deposited into the
5 neurotrauma special fund; and

6 (E) Forfeiture under chapter 712A of the vehicle
7 owned and operated by the person committing the
8 offense, provided that the department of
9 transportation shall provide storage for vehicles
10 forfeited under this subsection; and

11 (4) Any person eighteen years of age or older who is
12 convicted under this section and who operated a
13 vehicle with a passenger, in or on the vehicle, who
14 was younger than fifteen years of age, shall be
15 sentenced to an additional mandatory fine of \$500 and
16 an additional mandatory term of imprisonment of
17 forty-eight hours; provided that the total term of
18 imprisonment for a person convicted under this
19 paragraph shall not exceed the maximum term of
20 imprisonment provided in paragraphs (1), (2), or (3)."

21 SECTION 6. Section 291E-64, Hawaii Revised Statutes, is
22 amended by amending subsection (b) to read as follows:



1 "(b) A person who violates this section shall be sentenced
2 as follows:

3 (1) For a first violation or any violation not preceded
4 within a five-year period by a prior alcohol
5 enforcement contact:

6 (A) The court shall impose:

7 (i) A requirement that the person and, if the
8 person is under the age of eighteen, the
9 person's parent or guardian attend an
10 alcohol abuse education and counseling
11 program for not more than ten hours; and

12 (ii) A one hundred eighty-day prompt suspension
13 of license and privilege to operate a
14 vehicle with absolute prohibition from
15 operating a vehicle during the suspension
16 period, or in the case of a person eighteen
17 years of age or older, the court may impose,
18 in lieu of the one hundred eighty-day prompt
19 suspension of license, a minimum thirty-day
20 prompt suspension of license with absolute
21 prohibition from operating a vehicle and,
22 for the remainder of the one hundred



1 eighty-day period, a restriction on the
2 license that allows the person to drive for
3 limited work-related purposes and to
4 participate in alcohol abuse education and
5 treatment programs; and

6 (B) In addition, the court may impose any one or more
7 of the following:

8 (i) Not more than thirty-six hours of community
9 service work; or

10 (ii) A fine of not less than \$150 but not more
11 than \$500~~[]~~; and

12 (2) For a violation committed by a highly intoxicated
13 driver or that occurs within five years of a prior
14 alcohol enforcement contact:

15 (A) The court shall impose prompt suspension of
16 license and privilege to operate a vehicle for a
17 period of one year with absolute prohibition from
18 operating a vehicle during the suspension period;
19 and

20 (B) In addition, the court may impose any of the
21 following:



- 1 (i) Not more than fifty hours of community
- 2 service work; or
- 3 (ii) A fine of not less than \$300 but not more
- 4 than \$1,000[+];

5 and

6 (3) For a violation that occurs within five years of two
7 prior alcohol enforcement contacts:

8 (A) The court shall impose revocation of license and
9 privilege to operate a vehicle for a period of
10 two years; and

11 (B) In addition, the court may impose any of the
12 following:

- 13 (i) Not more than one hundred hours of community
- 14 service work; or
- 15 (ii) A fine of not less than \$300 but not more
- 16 than \$1,000."

17 SECTION 7. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 8. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun, before its effective date.

22 SECTION 9. This Act shall take effect upon its approval.

Report Title:

Use of Intoxicants While Operating a Motor Vehicle; Highly Intoxicated Driver

Description:

Increases sanctions for driving with a high blood alcohol level.
(HB2639 HD1)

