
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 the 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 as follows:

19 1. By amending subsection (b) to read:

20 "(b) The periods of administrative revocation with respect
21 to a license and privilege to operate a vehicle, and motor



1 vehicle registration if applicable, that shall be imposed under
2 this part are as follows:

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

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

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

21 [~~3~~] (4) A minimum of two years up to a maximum of four
22 years revocation of license and privilege to operate a



1 vehicle and of the registration of any motor vehicle
2 registered to the respondent, if the respondent's
3 record shows two prior alcohol enforcement contacts or
4 drug enforcement contacts during the seven years
5 preceding the date the notice of administrative
6 revocation was issued;

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

16 [~~(5)~~] (6) For respondents under the age of eighteen years
17 who were arrested for a violation of section 291E-61
18 or 291E-61.5, revocation of license and privilege to
19 operate a vehicle either for the period remaining
20 until the respondent's eighteenth birthday or, if
21 applicable, for the appropriate revocation period
22 provided in paragraphs (1) to [~~(4)~~] (5) or in



1 subsection (d), whichever is longer and such
2 respondents shall not qualify for a conditional
3 permit;
4 provided that when more than one administrative revocation,
5 suspension, or conviction arises out of the same arrest, it
6 shall be counted as only one prior alcohol enforcement contact
7 or drug enforcement contact, whichever revocation, suspension,
8 or conviction occurs later."

9 2. By amending subsection (d) to read:

10 "(d) If a respondent has refused to be tested after being
11 informed of the sanctions of this part, the revocation imposed
12 under subsection (b) (1), [~~2~~], (3), [~~and~~] (4), and (5) shall be
13 for a period of one year, two years, four years, and a lifetime,
14 respectively."

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

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



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



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

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

5 (2) For an offense committed by a highly intoxicated
6 driver, prompt suspension of license and privilege to
7 operate a vehicle for a period of six months;

8 [~~+2~~] (3) For an offense that occurs within five years of a
9 prior conviction for an offense under this section or
10 section 291E-4(a) by:

11 (A) Prompt suspension of license and privilege to
12 operate a vehicle for a period of one year with
13 an absolute prohibition from operating a vehicle
14 during the suspension period;

15 (B) Either one of the following:

16 (i) Not less than two hundred forty hours of
17 community service work; or

18 (ii) Not less than five days but not more than
19 fourteen days of imprisonment of which at
20 least forty-eight hours shall be served
21 consecutively;



- 1 (C) A fine of not less than \$500 but not more than
2 \$1,500; and
- 3 (D) A surcharge of \$25 to be deposited into the
4 neurotrauma special fund;
- 5 [~~3~~] (4) For an offense that occurs within five years of
6 two prior convictions for offenses under this section
7 or section 291E-4(a):
- 8 (A) A fine of not less than \$500 but not more than
9 \$2,500;
- 10 (B) Revocation of license and privilege to operate a
11 vehicle for a period not less than one year but
12 not more than five years;
- 13 (C) Not less than ten days but not more than thirty
14 days imprisonment of which at least forty-eight
15 hours shall be served consecutively; and
- 16 (D) A surcharge of \$25 to be deposited into the
17 neurotrauma special fund; and
- 18 (E) Forfeiture under chapter 712A of the vehicle
19 owned and operated by the person committing the
20 offense, provided that the department of
21 transportation shall provide storage for vehicles
22 forfeited under this subsection; and



1 [~~4~~] (5) Any person eighteen years of age or older who is
2 convicted under this section and who operated a
3 vehicle with a passenger, in or on the vehicle, who
4 was younger than fifteen years of age, shall be
5 sentenced to an additional mandatory fine of \$500 and
6 an additional mandatory term of imprisonment of
7 forty-eight hours; provided that the total term of
8 imprisonment for a person convicted under this
9 paragraph shall not exceed the maximum term of
10 imprisonment provided in paragraphs (1), (2), or (3)."

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

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

15 (1) For a first violation or any violation not preceded
16 within a five-year period by a prior alcohol
17 enforcement contact:

18 (A) The court shall impose:

19 (i) A requirement that the person and, if the
20 person is under the age of eighteen, the
21 person's parent or guardian attend an



- 1 alcohol abuse education and counseling
2 program for not more than ten hours; and
- 3 (ii) A one hundred eighty-day prompt suspension
4 of license and privilege to operate a
5 vehicle with absolute prohibition from
6 operating a vehicle during the suspension
7 period, or in the case of a person eighteen
8 years of age or older, the court may impose,
9 in lieu of the one hundred eighty-day prompt
10 suspension of license, a minimum thirty-day
11 prompt suspension of license with absolute
12 prohibition from operating a vehicle and,
13 for the remainder of the one hundred
14 eighty-day period, a restriction on the
15 license that allows the person to drive for
16 limited work-related purposes and to
17 participate in alcohol abuse education and
18 treatment programs; and
- 19 (B) In addition, the court may impose any one or more
20 of the following:
- 21 (i) Not more than thirty-six hours of community
22 service work; or



1 (ii) A fine of not less than \$150 but not more
2 than \$500[-];

3 (2) For a violation committed by a highly intoxicated
4 driver or that occurs within five years of a prior
5 alcohol enforcement contact:

6 (A) The court shall impose prompt suspension of
7 license and privilege to operate a vehicle for a
8 period of one year with absolute prohibition from
9 operating a vehicle during the suspension period;
10 and

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

13 (i) Not more than fifty hours of community
14 service work; or

15 (ii) A fine of not less than \$300 but not more
16 than \$1,000[-];

17 and

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

20 (A) The court shall impose revocation of license and
21 privilege to operate a vehicle for a period of
22 two years; and

1 (B) In addition, the court may impose any of the
2 following:

3 (i) Not more than one hundred hours of community
4 service work; or

5 (ii) A fine of not less than \$300 but not more
6 than \$1,000."

7 SECTION 7. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun, before its effective date.

10 SECTION 8. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 9. This Act shall take effect on January 1, 2096.



HB 2639

HD2

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 HD2)

