
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 minimum of one year revocation of license and
8 privilege to operate a vehicle and of the registration
9 of any motor vehicle registered to the respondent, if
10 the respondent is found to be a highly intoxicated
11 driver;
- 12 [~~2~~] (3) A minimum of one year up to a maximum of two
13 years revocation of license and privilege to operate a
14 vehicle and of the registration of any motor vehicle
15 registered to the respondent, if the respondent's
16 record shows one prior alcohol enforcement contact,
17 [~~or~~] drug enforcement contact during the five years
18 preceding the date the notice of administrative
19 revocation was issued;
- 20 [~~3~~] (4) A minimum of two years up to a maximum of four
21 years revocation of license and privilege to operate a
22 vehicle and of the registration of any motor vehicle



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

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

15 ~~[(5)]~~ (6) For respondents under the age of eighteen years
16 who were arrested for a violation of section 291E-61
17 or 291E-61.5, revocation of license and privilege to
18 operate a vehicle either for the period remaining
19 until the respondent's eighteenth birthday or, if
20 applicable, for the appropriate revocation period
21 provided in paragraphs (1) to (4) or in subsection



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

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

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

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

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

21 (B) Ninety-day prompt suspension of license and
22 privilege to operate a vehicle during the



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

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

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

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

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

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

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



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



- 1 (B) Revocation of license and privilege to operate a
2 vehicle for a period not less than one year but
3 not more than five years;
- 4 (C) Not less than ten days but not more than thirty
5 days imprisonment of which at least forty-eight
6 hours shall be served consecutively; and
- 7 (D) A surcharge of \$25 to be deposited into the
8 neurotrauma special fund; and
- 9 (E) Forfeiture under chapter 712A of the vehicle
10 owned and operated by the person committing the
11 offense, provided that the department of
12 transportation shall provide storage for vehicles
13 forfeited under this subsection; and
- 14 (4) Any person eighteen years of age or older who is
15 convicted under this section and who operated a
16 vehicle with a passenger, in or on the vehicle, who
17 was younger than fifteen years of age, shall be
18 sentenced to an additional mandatory fine of \$500 and
19 an additional mandatory term of imprisonment of
20 forty-eight hours; provided that the total term of
21 imprisonment for a person convicted under this



1 paragraph shall not exceed the maximum term of
2 imprisonment provided in paragraphs (1), (2), or (3)."

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

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

7 (1) For a first violation or any violation not preceded
8 within a five-year period by a prior alcohol
9 enforcement contact:

10 (A) The court shall impose:

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

suspension of license, a minimum thirty-day prompt suspension of license with absolute prohibition from operating a vehicle and, for the remainder of the one hundred eighty-day period, a restriction on the license that allows the person to drive for limited work-related purposes and to participate in alcohol abuse education and treatment programs; and

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

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

(ii) A fine of not less than \$150 but not more than \$500.

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

(A) The court shall impose prompt suspension of license and privilege to operate a vehicle for a period of one year with absolute prohibition from

1 operating a vehicle during the suspension period;

2 and

3 (B) In addition, the court may impose any of the
4 following:

5 (i) Not more than fifty hours of community
6 service work; or

7 (ii) A fine of not less than \$300 but not more
8 than \$1,000.

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

11 (A) The court shall impose revocation of license and
12 privilege to operate a vehicle for a period of
13 two years; and

14 (B) In addition, the court may impose any of the
15 following:

16 (i) Not more than one hundred hours of community
17 service work; or

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

20 SECTION 7. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



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

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

5

INTRODUCED BY: _____

J. M. L...

JAN 24 2006

6



HB 2639

Report Title:

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

Description:

Increases sanctions for driving with a high blood alcohol level.

