
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-38, Hawaii Revised Statutes, is
18 amended by amending subsection (d) to read as follows:

19 "(d) The director shall conduct the hearing and have
20 authority to:

- 21 (1) Administer oaths and affirmations;
- 22 (2) Examine witnesses and take testimony;



- 1 (3) Receive and determine the relevance of evidence;
- 2 (4) Issue subpoenas;
- 3 (5) Regulate the course and conduct of the hearing; [~~and~~]
- 4 (6) Impose up to the maximum license revocation period as
- 5 specified under section 291E-41(b); and
- 6 [~~6~~] (7) Make a final ruling."

7 SECTION 5. Section 291E-41, Hawaii Revised Statutes, is
8 amended as follows:

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

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

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

20 (2) For a respondent who is a highly intoxicated driver, a
21 mandatory six-month revocation of license and
22 privilege to operate a vehicle and of the registration



1 of any motor vehicle registered to the highly
2 intoxicated driver; provided that the highly
3 intoxicated driver shall not qualify for a conditional
4 license permit under section 291E-44;

5 ~~[(2)]~~ (3) A minimum of one year up to a maximum of two
6 years revocation of license and privilege to operate a
7 vehicle and of the registration of any motor vehicle
8 registered to the respondent, if the respondent's
9 record shows one prior alcohol enforcement contact or
10 drug enforcement contact during the five years
11 preceding the date the notice of administrative
12 revocation was issued;

13 ~~[(3)]~~ (4) A minimum of two years up to a maximum of four
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 two prior alcohol enforcement contacts or
18 drug enforcement contacts during the seven years
19 preceding the date the notice of administrative
20 revocation was issued;

21 ~~[(4)]~~ (5) Lifetime revocation of license and privilege to
22 operate a vehicle and of the registration of any motor

1 vehicle registered to the respondent and a lifetime
2 prohibition on any subsequent registration of motor
3 vehicles by the respondent, if the respondent's record
4 shows three or more prior alcohol enforcement contacts
5 or drug enforcement contacts during the ten years
6 preceding the date the notice of administrative
7 revocation was issued; or

8 [~~5~~] (6) For respondents under the age of eighteen years
9 who were arrested for a violation of section 291E-61
10 or 291E-61.5, revocation of license and privilege to
11 operate a vehicle either for the period remaining
12 until the respondent's eighteenth birthday or, if
13 applicable, for the appropriate revocation period
14 provided in paragraphs (1) to [~~4~~] (5) or in
15 subsection (d), whichever is longer and such
16 respondents shall not qualify for a conditional
17 permit;

18 provided that when more than one administrative revocation,
19 suspension, or conviction arises out of the same arrest, it
20 shall be counted as only one prior alcohol enforcement contact
21 or drug enforcement contact, whichever revocation, suspension,
22 or conviction occurs later."



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

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

7 SECTION 6. Section 291E-44, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) (1) During the administrative hearing, the director,
10 at the request of a respondent who is subject to
11 administrative revocation for a period as provided in
12 section 291E-41(b) (1), may issue a conditional license
13 permit that will allow the respondent, after a minimum
14 period of absolute license revocation of thirty days,
15 to drive for the remainder of the revocation period;
16 provided that one or more of the following conditions
17 are met:

18 (A) The respondent is gainfully employed in a
19 position that requires driving and will be
20 discharged if the respondent's driving privileges
21 are administratively revoked; or



1 (B) The respondent has no access to alternative
2 transportation and therefore must drive to work
3 or to a substance abuse treatment facility or
4 counselor for treatment ordered by the director
5 under section 291E-41; or

6 (2) Notwithstanding any other law to the contrary, the
7 director shall not issue a conditional license permit
8 to:

9 (A) A respondent whose license, during the
10 conditional license permit period, is expired [~~or~~
11 ~~is~~], suspended, or revoked as a result of action
12 other than the instant revocation for which the
13 respondent is requesting a conditional license
14 permit under this section;

15 (B) A respondent who has refused breath, blood, or
16 urine tests for purposes of determining alcohol
17 concentration or drug content of the person's
18 breath, blood, or urine, as applicable; [~~or~~]

19 (C) A respondent who is a highly intoxicated driver;
20 and

1 [~~C~~] (D) A respondent who holds either a category 4
2 license under section 286-102(b) or a commercial
3 driver's license under section 286-239(b)."

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

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

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

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

17 (B) Ninety-day prompt suspension of license and
18 privilege to operate a vehicle during the
19 suspension period, or the court may impose, in
20 lieu of the ninety-day prompt suspension of
21 license, a minimum thirty-day prompt suspension
22 of license with absolute prohibition from



1 operating a vehicle and, for the remainder of the
2 ninety-day period, a restriction on the license
3 that allows the person to drive for limited
4 work-related purposes and to participate in
5 substance abuse treatment programs;

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

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

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

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

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

14 (2) For an offense committed by a highly intoxicated
15 driver, prompt suspension of license and privilege to
16 operate a vehicle for a period of six months with an
17 absolute prohibition from operating a vehicle during
18 the suspension period;

19 [~~2~~] (3) For an offense that occurs within five years of a
20 prior 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~~] (4) For an offense that occurs within five years of
- 17 two prior convictions for offenses under this section
- 18 or 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~~[7]~~; provided that the department of
12 transportation shall provide storage for vehicles
13 forfeited under this subsection; and

14 ~~[(4)]~~ (5) 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
22 paragraph shall not exceed the maximum term of



1 imprisonment provided in [~~paragraphs~~] paragraph (1),
2 (2), or (3)."

3 SECTION 8. 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 suspension of license, a minimum thirty-day
2 prompt suspension of license with absolute
3 prohibition from operating a vehicle and,
4 for the remainder of the one hundred eighty-
5 day period, a restriction on the license
6 that allows the person to drive for limited
7 work-related purposes and to participate in
8 alcohol abuse education and treatment
9 programs; and

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

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

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

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

19 (A) The court shall impose prompt suspension of
20 license and privilege to operate a vehicle for a
21 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 and

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

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

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

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

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



1 SECTION 9. 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 10. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 11. This Act shall take effect on July 1, 2007.



HB 2639 HD 2 SD 2

CD1

Report Title:

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

Description:

Increases sanctions for driving with a high blood alcohol level. Effective 7/1/07. (HB2639 CD1)

