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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:

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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 six months revocation of license and  
8 privilege to operate a vehicle, registration of any  
9 motor vehicle registered to the respondent, and  
10 surrender of number plates for this time period, if  
11 the respondent is found to be a highly intoxicated  
12 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,  
18 [~~or~~] 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) 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



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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

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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  
5 eighty-day period, a restriction on the  
6 license that allows the person to drive for  
7 limited work-related purposes and to  
8 participate in alcohol abuse education and  
9 treatment 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 (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.

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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 on January 1, 2007.



# PROPOSED

**Report Title:**

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

**Description:**

Increases sanctions for driving with a high blood alcohol level.  
(SD2)

