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## A BILL FOR AN ACT

RELATING TO FINES FOR DRIVING UNDER THE INFLUENCE OF AN  
INTOXICANT.

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

1           SECTION 1. Section 291-4.6, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3           "(b) Any person convicted of violating this section shall  
4 be sentenced as follows:

5           (1) For a first offense, or any offense not preceded  
6 within a five-year period by a conviction under this  
7 section:

8           (A) A term of imprisonment at least three consecutive  
9 days but not more than thirty days;

10           (B) A fine not less than [~~\$250~~] \$1,000 but not more  
11 than [~~\$1,000;~~] \$2,000; and

12           (C) License suspension or denial shall continue until  
13 written authorization of compliance is issued by  
14 the child support enforcement agency, the office  
15 of child support hearings, or the family court;  
16 and



- 1           (2) For an offense which occurs within five years of a
- 2           prior conviction under this section:
- 3           (A) Thirty days' imprisonment;
- 4           (B) A fine of [~~\$1,000~~] \$2,000; and
- 5           (C) License suspension or denial shall continue until
- 6           written authorization of compliance pursuant to
- 7           section 576D-13 [+]is[+] issued by the child
- 8           support enforcement agency, the office of child
- 9           support hearings, or the family court."

10           SECTION 2. Section 291E-61, Hawaii Revised Statutes, is  
11 amended to read as follows:

12           "**§291E-61 Operating a vehicle under the influence of an**  
13 **intoxicant.** (a) A person commits the offense of operating a  
14 vehicle under the influence of an intoxicant if the person  
15 operates or assumes actual physical control of a vehicle:

16           (1) While under the influence of alcohol in an amount  
17           sufficient to impair the person's normal mental  
18           faculties or ability to care for the person and guard  
19           against casualty;

20           (2) While under the influence of any drug that impairs the  
21           person's ability to operate the vehicle in a careful  
22           and prudent manner;



1 (3) With .08 or more grams of alcohol per two hundred ten  
2 liters of breath; or

3 (4) With .08 or more grams of alcohol per one hundred  
4 milliliters or cubic centimeters of blood.

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

9 (1) Except as provided in [†]paragraph[†] (2), for the  
10 first offense, or any offense not preceded within a  
11 five-year period by a conviction for an offense under  
12 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 work-  
4 related purposes and to participate in substance  
5 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~~] \$1,000 but  
11 not more than [~~\$1,000~~] \$2,000; and

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

14 (2) For a first offense committed by a highly intoxicated  
15 driver, or for any offense committed by a highly  
16 intoxicated driver not preceded within a five-year  
17 period by a conviction for an offense under this  
18 section or section 291E-4(a):

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



1 (B) Prompt suspension of a license and privilege to  
2 operate a vehicle for a period of six months with  
3 an absolute prohibition from operating a vehicle  
4 during the suspension period;

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

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

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

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

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

13 (3) For an offense that occurs within five years of a  
14 prior conviction for an offense under this section or  
15 section 291E-4(a) by:

16 (A) Prompt suspension of license and privilege to  
17 operate a vehicle for a period of one year with  
18 an absolute prohibition from operating a vehicle  
19 during the suspension period;

20 (B) Either one of the following:

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



1 (ii) Not less than five days but not more than  
2 fourteen days of imprisonment of which at  
3 least forty-eight hours shall be served  
4 consecutively;

5 (C) A fine of not less than [~~\$2,000~~] \$3,000 but not  
6 more than [~~\$3,000;~~] \$4,000; and

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

9 (4) For an offense that occurs within five years of two  
10 prior convictions for offenses under this section or  
11 section 291E-4(a):

12 (A) A fine of not less than [~~\$3,000~~] \$4,000 but not  
13 more than [~~\$4,000;~~] \$5,000;

14 (B) Revocation of license and privilege to operate a  
15 vehicle for a period not less than one year but  
16 not more than five years;

17 (C) Not less than ten days but not more than thirty  
18 days imprisonment of which at least forty-eight  
19 hours shall be served consecutively;

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



1 (E) Forfeiture under chapter 712A of the vehicle  
2 owned and operated by the person committing the  
3 offense; provided that the department of  
4 transportation shall provide storage for vehicles  
5 forfeited under this subsection; and

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

16 (c) Notwithstanding any other law to the contrary, any:

17 (1) Conviction under this section, section 291E-4(a), or  
18 section 291E-61.5;

19 (2) Conviction in any other state or federal jurisdiction  
20 for an offense that is comparable to operating or  
21 being in physical control of a vehicle while having  
22 either an unlawful alcohol concentration or an



1 unlawful drug content in the blood or urine or while  
2 under the influence of an intoxicant or habitually  
3 operating a vehicle under the influence of an  
4 intoxicant; or

5 (3) Adjudication of a minor for a law violation that, if  
6 committed by an adult, would constitute a violation of  
7 this section or an offense under section 291E-4(a), or  
8 section 291E-61.5;

9 shall be considered a prior conviction for the purposes of  
10 imposing sentence under this section. Any judgment on a verdict  
11 or a finding of guilty, a plea of guilty or nolo contendere, or  
12 an adjudication in the case of a minor, that at the time of the  
13 offense has not been expunged by pardon, reversed, or set aside  
14 shall be deemed a prior conviction under this section. No  
15 license and privilege suspension or revocation shall be imposed  
16 pursuant to this section if the person's license and privilege  
17 to operate a vehicle has previously been administratively  
18 revoked pursuant to part III for the same act; provided that, if  
19 the administrative suspension or revocation is subsequently  
20 reversed, the person's license and privilege to operate a  
21 vehicle shall be suspended or revoked as provided in this  
22 section.





1 (d) Whenever a court sentences a person pursuant to  
2 subsection (b), it also shall require that the offender be  
3 referred to the driver's education program for an assessment, by  
4 a certified substance abuse counselor, of the offender's  
5 substance abuse or dependence and the need for appropriate  
6 treatment. The counselor shall submit a report with  
7 recommendations to the court. The court shall require the  
8 offender to obtain appropriate treatment if the counselor's  
9 assessment establishes the offender's substance abuse or  
10 dependence. All costs for assessment and treatment shall be  
11 borne by the offender.

12 (e) Notwithstanding any other law to the contrary,  
13 whenever a court revokes a person's driver's license pursuant to  
14 this section, the examiner of drivers shall not grant to the  
15 person a new driver's license until the expiration of the period  
16 of revocation determined by the court. After the period of  
17 revocation is completed, the person may apply for and the  
18 examiner of drivers may grant to the person a new driver's  
19 license.

20 (f) Any person sentenced under this section may be ordered  
21 to reimburse the county for the cost of any blood or urine tests  
22 conducted pursuant to section 291E-11. The court shall order



1 the person to make restitution in a lump sum, or in a series of  
2 prorated installments, to the police department or other agency  
3 incurring the expense of the blood or urine test.

4 (g) The requirement to provide proof of financial  
5 responsibility pursuant to section 287-20 shall not be based  
6 upon a sentence imposed under subsection (b)(1).

7 (h) As used in this section, the term "examiner of  
8 drivers" has the same meaning as provided in section 286-2.

9 (i) The state director of finance shall transmit to each  
10 county, not more than thirty days after the end of each fiscal  
11 quarter, the fines collected for convictions of persons charged  
12 with violations of this section that are committed in that  
13 county, to be used only for design, construction, maintenance,  
14 and repair of roads in that county."

15 SECTION 3. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun, before its effective date.

18 SECTION 4. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:



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**Report Title:**

DUI; Fines; County Highways

**Description:**

Increases fines for driving after license suspended or denied for noncompliance with an order of support. Increases the fine for first time DUI offenders. Requires the state director of finance to pay fines received from DUI offenders to the county in which the offense occurred for use in road design, construction, maintenance, and repair.

