
A BILL FOR AN ACT

RELATING TO TRAFFIC SAFETY.

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

1 SECTION 1. The legislature finds that there is a need to
2 reduce the incidence of drivers on highways and roads of this
3 State who, because of their use, consumption, or possession of
4 intoxicating liquor, pose a danger to the health and safety of
5 the people of Hawaii.

6 One method of dealing with the problem of drinking drivers
7 is to discourage the use of motor vehicles by persons who have
8 consumed alcoholic beverages. The installation of an ignition
9 interlock system that measures breath alcohol will provide a
10 means of deterring the use of motor vehicles by these persons.
11 Ignition interlock systems are designed to supplement other
12 methods of punishment that prevent drivers who have been
13 convicted of driving under the influence of an intoxicant from
14 using a motor vehicle after using, possessing, or consuming
15 alcohol. It is economically and technically feasible to have an
16 ignition interlock system installed in a motor vehicle in such a
17 manner that the vehicle will not start if the operator has
18 recently consumed alcohol.



1 The legislature finds indications that sentencing an
2 impaired driver to prison alone does little more than remove the
3 offender from the roads for a period of time. To lower the
4 incidence of repeat offenses, it is important that the cause of
5 the offense be addressed. Therefore, this Act preserves the
6 current sentencing structure while providing the court with the
7 flexibility to combine community service and imprisonment with
8 connection of an ignition interlock system.

9 The purpose of this Act is to authorize the court to
10 require a person convicted of driving under the influence of an
11 intoxicant to attach an ignition interlock system to the
12 person's motor vehicle to prevent impaired driving during the
13 year after the person's license has been suspended or revoked
14 for driving under the influence.

15 SECTION 2. Chapter 291E, Hawaii Revised Statutes, is
16 amended by adding a new part to be appropriately designated and
17 to read as follows:

18 "PART . IGNITION INTERLOCK SYSTEMS

19 §291E-A Definitions. As used in this chapter:

20 "Director" means the director of transportation.

21 "Examiner of drivers" means the person or persons appointed
22 under section 286-101.



1 "Ignition interlock system" or "system" means a constant
2 monitoring system certified by the director which prevents a
3 motor vehicle from being started without first determining the
4 blood alcohol level of the operator by testing a deep-lung
5 breath sample.

6 "Offender" means a person sentenced to the use of an
7 ignition interlock system.

8 **§291E-B Proof of compliance; failure to comply.** (a) When
9 the court sentences a person to the use of an ignition interlock
10 system under section 291E-61, the court shall require the
11 offender to provide proof to the director that the system was
12 installed in the offender's motor vehicle on or prior to the day
13 on which use of the system is to begin. Proof shall be provided
14 within ten working days of the day on which use of the system is
15 to begin.

16 (b) If the offender fails to provide proof of
17 installation, absent a finding of good cause by the court, the
18 court shall revoke the offender's driving privileges for the
19 remaining period during which the use of the system was
20 required.

21 (c) In the event that the system cannot be installed due
22 to the unavailability of the system, the manufacturer or



1 installer shall report this to the court. The court may extend
2 the time for installation of the system and shall impose an
3 equivalent extension in the period during which connection of
4 the interlock system is required.

5 (d) For the purposes of this section, good cause for
6 failure to comply shall mean any reason the court deems
7 sufficiently justifiable to excuse the offender's failure to
8 comply with its order.

9 (e) The court shall also require an imprint or attachment
10 of a notation on the driver's license of the offender indicating
11 that the offender may operate only a motor vehicle equipped with
12 an ignition interlock system.

13 **§291E-C Monitoring.** An offender shall have any ignition
14 interlock system installed, monitored by the manufacturer of the
15 system for proper use and accuracy at least quarterly, or more
16 frequently as determined by the director. A report of that
17 monitoring shall be issued by the manufacturer to the court
18 within fourteen days following each monitoring.

19 **§291E-D Costs.** (a) An offender shall pay the costs of
20 leasing or buying and installing an ignition interlock system.

21 (b) An offender who is unable to pay the costs of the
22 system shall file an affidavit of indigency or inability to pay



1 the court within ten days of the order, and the court shall
2 cause an investigation to be made to confirm the indigency or
3 establish that payment would cause a grave and serious hardship
4 to the offender or to the offender's family. The court may
5 enter a written finding of indigency that waives the entire
6 amount of the cost, or may direct the offender to make partial
7 or installment payments of costs when appropriate.

8 Subject to appropriation, the State shall reimburse the
9 installer of a system provided to an offender for whom payment
10 of costs has been waived on the grounds of indigency.

11 (c) Each offender shall pay a fee, in addition to any
12 other system fees authorized, of not more than \$100 to the court
13 for the costs of providing ignition interlock systems to
14 individuals deemed indigent. No fee shall be collected from an
15 offender who is determined to be indigent; provided that in lieu
16 of waiver of the entire amount of the fee, the court may direct
17 the offender to make partial or installment payments of the fee
18 when appropriate. Fees shall be deposited into the general
19 fund. Failure to pay the fees required under this section,
20 unless excused, shall constitute a violation of this chapter.

21 **§291E-E Employer-owned vehicles.** (a) An offender may
22 operate a motor vehicle owned by the offender's employer without



1 installation of an ignition interlock system if operation of the
2 vehicle is required in the course and scope of the offender's
3 employment, the employer has been notified that the offender's
4 driving privileges are restricted as provided in section 291E-
5 61, and the offender has proof of the notification in the
6 offender's possession while operating the employer's vehicle.

7 (b) An offender shall not operate an employer-owned motor
8 vehicle for personal use unless the motor vehicle is equipped
9 with a functioning certified, ignition interlock system.

10 (c) Upon conviction of an offender for violation of any
11 provision of this section, the court shall notify the examiner
12 of drivers who shall immediately revoke the person's license to
13 operate a motor vehicle for the remainder of the period during
14 which the ignition interlock system requirement was imposed.

15 **§291E-F Tampering; circumvention.** (a) No person shall
16 circumvent or tamper with the operation of an ignition interlock
17 system.

18 **§291E-G Use of other than personal motor vehicle.** (a) No
19 person shall knowingly rent, lease, or lend a motor vehicle to
20 an offender, unless the vehicle is equipped with a functioning,
21 certified ignition interlock system. An offender shall notify
22 any other person who rents, leases, or lends a motor vehicle to



1 the offender that the offender may not operate a motor vehicle
2 unless it is equipped with a functioning, certified ignition
3 interlock system.

4 (b) No person shall:

5 (1) Solicit another to blow into an ignition interlock
6 system to circumvent the lawful purpose of the system
7 and start the motor vehicle for an offender; or

8 (2) Blow into an ignition interlock system to circumvent
9 the lawful purpose of the system by starting a motor
10 vehicle equipped with the system to provide an
11 operable motor vehicle to an offender.

12 (c) The prohibitions under subsection (b) shall not apply
13 if the starting of a motor vehicle, or the request to start a
14 motor vehicle, equipped with an ignition interlock system is
15 done for the purpose of maintaining the safety of or repairing
16 the system or the vehicle; provided that the offender does not
17 operate the vehicle.

18 **§291E-H Certification.** (a) The director shall certify or
19 cause to be certified ignition interlock systems for use in the
20 state and shall adopt rules under chapter 91 for certification
21 of the systems. The rules shall ensure at least that the
22 system:



- 1 (1) Shall not impede the safe operation of the vehicle;
- 2 (2) Shall have features that make circumvention difficult
3 and that do not interfere with the normal use of the
4 vehicle;
- 5 (3) Shall correlate well with established measures of
6 alcohol impairment;
- 7 (4) Shall work accurately and reliably in an unsupervised
8 environment;
- 9 (5) Shall resist tampering and give evidence if tampering
10 is attempted;
- 11 (6) Requires a deep-lung breath sample as a measure of
12 blood alcohol concentration equivalence; and
- 13 (7) Is manufactured by a party who will provide liability
14 insurance.
- 15 (b) A list of certified systems shall be published by the
16 director.
- 17 (c) The cost of the certification program shall be borne
18 by manufacturers of ignition interlock systems seeking to sell
19 or offer for sale or lease their systems in the state.
- 20 The director may establish, pursuant to chapter 91, fees to
21 cover the costs incurred in the process of certifying each
22 ignition interlock system.



1 (d) The director, prior to certification and thereafter as
2 deemed necessary, shall evaluate ignition interlock systems for
3 compliance with the requirements of this section. The
4 manufacturer of any system sought to be certified shall provide
5 the director with the following:

- 6 (1) The ignition interlock system;
- 7 (2) All related accessories;
- 8 (3) A detailed set of instructions pertaining to the
9 operation and maintenance of the system; and
- 10 (4) Any other material needed for the evaluation,
11 including technical consultation.

12 **§291E-I Misuse of system.** No person shall advertise for
13 sale, offer for sale, or sell or lease an ignition interlock
14 system in the state unless the system has been certified by the
15 director and the manufacturer of the system has affixed a
16 warning label on the system approved by the director, stating
17 that the tampering, circumventing, or other misuse of the system
18 is a misdemeanor subject to a fine not exceeding \$2,000 or
19 imprisonment of up to one year, or both.

20 **§291E-J Penalty.** Any person who violates any provision of
21 this chapter shall be guilty of a misdemeanor."



1 SECTION 3. Section 291E-61, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

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

7 (1) Except as provided in [†]paragraph[†] (2), for the
8 first offense, or any offense not preceded within a
9 five-year period by a conviction for an offense under
10 this section or section 291E-4(a):

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

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



1 that allows the person to drive for limited
2 work-related purposes and to participate in
3 substance abuse treatment programs;

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

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

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

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

10 (iv) Connection of an ignition interlock system
11 to the offender's vehicle for one year
12 pursuant to chapter following the period
13 of suspension imposed pursuant to subsection
14 (b) (1) (B) ;

15 and

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

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



- 1 (A) A fourteen-hour minimum substance abuse
2 rehabilitation program, including education and
3 counseling, or other comparable program deemed
4 appropriate by the court;
- 5 (B) Prompt suspension of a license and privilege to
6 operate a vehicle for a period of six months with
7 an absolute prohibition from operating a vehicle
8 during the suspension period;
- 9 (C) Any one or more of the following:
- 10 (i) Seventy-two hours of community service work;
- 11 (ii) Not less than forty-eight hours and not more
12 than five days of imprisonment; [~~e~~]
- 13 (iii) A fine of not less than \$150 but not more
14 than \$1,000; [~~and~~] or
- 15 (iv) Connection of an ignition interlock system
16 to the offender's vehicle for one year
17 pursuant to chapter following the
18 period of suspension imposed pursuant to
19 subsection (b) (2) (B); and
- 20 (D) A surcharge of \$25 to be deposited into the
21 neurotrauma special fund;



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

4 (A) Prompt suspension of license and privilege to
5 operate a vehicle for a period of one year with
6 an absolute prohibition from operating a vehicle
7 during the suspension period;

8 (B) [~~Either~~] Any one or more of the following:

9 (i) Not less than two hundred forty hours of
10 community service work; [~~or~~]

11 (ii) Not less than five days but not more than
12 fourteen days of imprisonment of which at
13 least forty-eight hours shall be served
14 consecutively; or

15 (iii) Connection of an ignition interlock system
16 to the offender's vehicle for one year
17 pursuant to chapter _____ following the
18 period of suspension imposed pursuant to
19 subsection (b) (3) (A);

20 (C) A fine of not less than \$500 but not more than
21 \$1,500; and



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



1 transportation shall provide storage for vehicles
2 forfeited under this subsection; [~~and~~]

3 and

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

14 SECTION 4. The motor vehicle safety office of the
15 department of transportation shall monitor the use of ignition
16 interlock systems and twenty days prior to the convening of each
17 year's regular session, shall submit a report to the legislature
18 on the implementation, use, and effectiveness of ignition
19 interlock systems.

20 SECTION 5. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$ or so much
22 thereof as may be necessary for fiscal year 2008-2009.



1 The sum appropriated shall be expended by the department of
2 transportation for the purposes of this Act.

3 SECTION 6. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun, before its effective date.

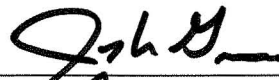
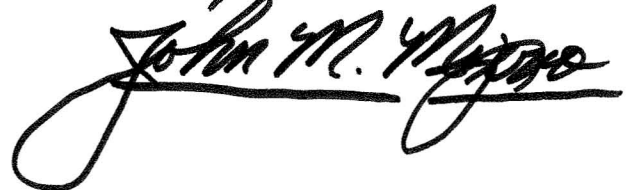
6 SECTION 7. In codifying the new part added to chapter
7 291E, Hawaii Revised Statutes, by section 2 of this Act, the
8 revisor of statutes shall substitute appropriate section numbers
9 for letters used in designating the new sections in this Act.

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 July 1, 2008.

13

INTRODUCED BY:

JAN 17 2008



Report Title:

Driving Under the Influence; Ignition Interlock Systems

Description:

Establishes an ignition interlock program that permits court to require use of the system as part of the sentence for driving under the influence of an intoxicant. Requires department of transportation to monitor program. Appropriates funds.

