
A BILL FOR AN ACT

RELATING TO INTOXICANTS.

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

1 SECTION 1. 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



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

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

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

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

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

14 (iv) Impoundment of the vehicle owned and
15 operated by the person committing the
16 offense for not less than forty-eight hours
17 and not more than thirty days at the
18 person's sole expense and liability; and

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

21 (2) For a first offense committed by a highly intoxicated
22 driver, or for any offense committed by a highly



1 intoxicated driver not preceded within a five-year
2 period by a conviction for an offense under this
3 section or section 291E-4(a):

4 (A) A fourteen-hour minimum substance abuse
5 rehabilitation program, including education and
6 counseling, or other comparable program deemed
7 appropriate by the court;

8 (B) Prompt suspension of a license and privilege to
9 operate a vehicle for a period of six months with
10 an absolute prohibition from operating a vehicle
11 during the suspension period;

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

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

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

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

18 (iv) Impoundment of the vehicle owned and
19 operated by the person committing the
20 offense for not less than forty-eight hours
21 and not more than thirty days at the
22 person's sole expense and liability; and



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



1 (C) A fine of not less than \$500 but not more than
2 \$1,500; and

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

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

8 (A) A fine of not less than \$500 but not more than
9 \$2,500;

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

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

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

18 (E) Forfeiture under chapter 712A of the vehicle
19 owned and operated by the person committing the
20 offense; provided that the department of
21 transportation shall provide storage for vehicles
22 forfeited under this subsection; and



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

11 SECTION 2. Section 291E-64, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

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

15 (1) For a first violation or any violation not preceded
16 within a five-year period by a prior alcohol
17 enforcement contact:

18 (A) The court shall impose:

19 (i) A requirement that the person and, if the
20 person is under the age of eighteen, the
21 person's parent or guardian attend an



1 alcohol abuse education and counseling
2 program for not more than ten hours; and
3 (ii) A one hundred eighty-day prompt suspension
4 of license and privilege to operate a
5 vehicle with absolute prohibition from
6 operating a vehicle during the suspension
7 period, or in the case of a person eighteen
8 years of age or older, the court may impose,
9 in lieu of the one hundred eighty-day prompt
10 suspension of license, a minimum thirty-day
11 prompt suspension of license with absolute
12 prohibition from operating a vehicle and,
13 for the remainder of the one hundred eighty-
14 day period, a restriction on the license
15 that allows the person to drive for limited
16 work-related purposes and to participate in
17 alcohol abuse education and treatment
18 programs; and

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

21 (i) Not more than thirty-six hours of community
22 service work; [~~or~~]



1 (ii) A fine of not less than \$150 but not more
2 than \$500; or

3 (iii) Impoundment of the vehicle owned and
4 operated by the person committing the
5 offense for not less than forty-eight hours
6 and not more than thirty days at the
7 person's sole expense and liability;

8 (2) For a violation that occurs within five years of a
9 prior alcohol enforcement contact:

10 (A) The court shall impose prompt suspension of
11 license and privilege to operate a vehicle for a
12 period of one year with absolute prohibition from
13 operating a vehicle during the suspension period;
14 and

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

17 (i) Not more than fifty hours of community
18 service work; [~~or~~]

19 (ii) A fine of not less than \$300 but not more
20 than \$1,000; [~~and~~] or

21 (iii) Impoundment of the vehicle owned and
22 operated by the person committing the



offense for not less than forty-eight hours
and not more than thirty days at the
person's sole expense and liability; and

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

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

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

(i) Not more than one hundred hours of community service work; [~~or~~]

(ii) A fine of not less than \$300 but not more than \$1,000[~~+~~] or

(iii) Impoundment of the vehicle owned and operated by the person committing the offense for not less than forty-eight hours and not more than thirty days at the person's sole expense and liability."

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



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on January 1, 2009.
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Report Title:

Vehicle; Use of Intoxicants

Description:

Permits the court to order that a vehicle, owned and operated by a person committing the offense of operating a vehicle under the influence of an intoxicant, be impounded at the owner's sole expense and liability for not less than forty-eight hours and not more than 30 days. Effective 01/01/09.

