
A BILL FOR AN ACT

RELATING TO VEHICLE IGNITION INTERLOCK SYSTEMS.

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



1 The purpose of this Act, to be known as the "Drunk Driving
 2 Reduction Act of 2008", is to authorize the court to require a
 3 person convicted of driving under the influence of an intoxicant
 4 to attach an ignition interlock system to the person's car to
 5 prevent impaired driving, in addition to other sanctions.

6 SECTION 2. The Hawaii Revised Statutes is amended by
 7 adding a new chapter to be appropriately designated and to read
 8 as follows:

9 "CHAPTER A

10 IGNITION INTERLOCK SYSTEMS

11 § A-1 Definitions. As used in this chapter:

12 "Director" means the director of transportation.

13 "Examiner of drivers" means the person or persons appointed
 14 under 286-101.

15 "Ignition interlock system" means an alcohol monitoring
 16 system certified by Underwriters Laboratory Inc., or an
 17 equivalent nationally recognized certification organization
 18 which prevents a motor vehicle from being started at any time
 19 the device detects a predetermined blood alcohol level in the
 20 operator by testing a deep-lung breath sample.

21 "Installer" means an installer of an ignition interlock
 22 system certified by the director pursuant to this chapter.



1 § **A-2 Proof of compliance; failure to comply.** (a) When
2 the court sentences an offender to the use of an ignition
3 interlock system, the court shall require the offender to
4 provide proof of installation to the director within ten working
5 days.

6 (b) If the person fails to provide proof of installation
7 within that period, absent a finding of good cause by the court,
8 the court shall revoke or terminate the person's driving
9 privileges for the remaining period during which the use of the
10 system was required.

11 (c) In the event that the system cannot be installed due
12 to unavailability of the system, the manufacturer or installer
13 shall report this to the court and the court may extend the time
14 for implementation of the system for an additional thirty days.

15 (d) For the purposes of this section, good cause for
16 failure to comply shall mean any reason the court deems
17 sufficiently justifiable to excuse the person's failure to
18 comply with its order.

19 (e) The court shall also require an imprint or attachment
20 of a notation on the driver's license of any person restricted
21 under this chapter indicating that the person may operate only a
22 motor vehicle equipped with an ignition interlock system.



1 **§ A-3 Monitoring.** Any person required to install an
2 ignition interlock system shall have the system monitored by the
3 manufacturer of the system for proper use and accuracy at least
4 quarterly or more frequently, as the court may order. A report
5 of such monitoring shall be issued by the manufacturer to the
6 director within fourteen days following each such monitoring.

7 **§ A-4 Costs.** (a) If an ignition interlock is ordered
8 installed pursuant to this chapter, the offender shall pay the
9 reasonable costs of leasing or buying and installing the system.

10 (b) No person may be excluded from those costs for
11 inability to pay unless that person files an affidavit of
12 indigency or inability to pay with the court within ten days of
13 the order, that investigation confirms such indigency or
14 establishes that the payment of such cost would cause a grave
15 and serious hardship to the individual or to the family of the
16 individual, and that the court enters a written finding thereof.
17 In lieu of waiver of the entire amount of the cost, the court
18 may direct the offender to make partial or installment payments
19 of costs when appropriate. Subject to appropriation, the State
20 shall reimburse the installer of a device provided to any person
21 for whom payment of costs has been waived on the grounds of
22 indigency. An additional fee of not more than \$100 shall be



1 paid to the court by each person ordered to implement the
2 ignition interlock device pursuant to this chapter, and all
3 those fees shall be deposited in the general fund, subject to
4 appropriation, for the support costs incurred through
5 implementation by individuals deemed indigent.

6 (c) No fee shall be collected from any person who, after
7 the filing of an affidavit of indigency or inability to pay with
8 the court within ten days of the orders and investigation
9 confirming that indigency or establishing that the payment of
10 the fee would cause a grave and serious hardship to the
11 individual or to the family thereof, is determined by the court
12 to be indigent, provided that the court enters a written finding
13 thereof. In lieu of waiver of the entire amount of the fee, the
14 court may direct the individual to make partial or installment
15 payments of the fee when appropriate. Failure to pay the fees
16 required under this section, unless excused, shall constitute
17 sufficient basis for a finding by the court at a hearing that
18 the person has failed to comply with implementation.

19 § A-5 Employer-owned vehicles. (a) If an offender is
20 required, in the course and scope of the person's employment to
21 operate a motor vehicle owned by the person's employer, the
22 person may operate that vehicle without installation of an



1 ignition interlock system only if the employer has been notified
2 that the employee is restricted as provided in section 291E-61,
3 the employee has proof of the notification in possession while
4 operating the employer's vehicle in the course of employment,
5 and that the license needed to operate the vehicle is not a
6 category four license.

7 (b) To the extent that an employer-owned vehicle is made
8 available for personal use to the person subject to this
9 chapter, no exemption under this section shall apply. A person
10 intending to operate an employer-owned motor vehicle for
11 personal use and who is required to operate only a motor vehicle
12 equipped with a certified ignition interlock system shall bear
13 the burden of notifying the employer in accordance with this
14 section and obtaining consent in writing from the employer to
15 install such a system in the employer-owned vehicle.

16 (c) Upon conviction for violation of any provision of this
17 section, the court shall notify the examiner of drivers who
18 shall immediately revoke the person's license to operate a
19 vehicle for the remainder of the period of suspension or
20 revocation during which the ignition interlock requirement was
21 imposed.



1 § A-6 Tampering; use of other than personal motor
2 vehicle. (a) A person shall not knowingly circumvent or tamper
3 with the operation of an ignition interlock system.

4 (b) No person shall knowingly rent, lease, or lend a motor
5 vehicle to a person whose driving privilege is restricted as
6 provided in this chapter, unless the vehicle is equipped with a
7 functioning, certified ignition interlock system. Any person
8 whose driving privilege is restricted shall notify any other
9 person who rents, leases, or lends a motor vehicle to the
10 restricted person of the driving restriction imposed under this
11 chapter.

12 (c) No person shall knowingly solicit another to blow into
13 an ignition interlock system to start the motor vehicle so as to
14 circumvent the system.

15 (d) No person shall knowingly blow into an ignition
16 interlock system or start a motor vehicle equipped with an
17 ignition interlock system for the purpose of providing an
18 operable motor vehicle to someone required to have such a
19 system.

20 (e) This section does not apply if the starting of a motor
21 vehicle, or the request to start a motor vehicle, equipped with
22 an ignition interlock device is done for the purpose of safety



1 or mechanical repair of the device or the vehicle and the person
2 subject to the court order does not operate the vehicle.

3 **§ A-7 Certification.** (a) The director shall certify or
4 cause to be certified ignition interlock systems for use in the
5 State and adopt rules under chapter 91 for the certification of
6 the systems. The standards shall require at least that:

7 (1) The system shall not impede the safe operation of the
8 vehicle;

9 (2) The system shall have features that make circumvention
10 difficult and that do not interfere with the normal
11 use of the vehicle;

12 (3) The system shall correlate well with established
13 measures of alcohol impairment;

14 (4) The system shall work accurately and reliably in an
15 unsupervised environment;

16 (5) The system shall resist tampering and give evidence if
17 tampering is attempted;

18 (6) The system requires a deep-lung breath sample as a
19 measure of blood alcohol concentration equivalence;

20 (7) The system is manufactured by a party who will provide
21 liability insurance; and



1 (8) The ignition interlock system is certified by
2 Underwriters Laboratory Inc. or an equivalent
3 nationally recognized certification organization.

4 (b) A list of certified systems shall be published by the
5 director and the cost of the certification shall be borne by the
6 manufacturers of ignition interlock systems seeking to sell or
7 offer for sale or lease those devices in the State.

8 (c) The director may make an assessment against the
9 manufacturers of ignition interlock systems seeking to sell or
10 offer for sale or lease those devices in the State for the costs
11 incurred in the process of certifying each ignition interlock
12 device.

13 § **A-8 Misuse of system.** No person shall advertise for
14 sale, offer for sale, or sell or lease an ignition interlock
15 system in the State unless the system has been certified by the
16 director and the manufacturer of the system has affixed a
17 warning label on the system approved by the director, stating
18 that the tampering, circumventing, or other misuse of the system
19 may be a misdemeanor subject to a fine or imprisonment or both,
20 as established in section -9.

21 § **A-9 Penalty.** Any person convicted of a violation of
22 this chapter shall be guilty of a misdemeanor and the court



1 shall revoke or terminate the person's driving privileges for
2 the remaining period during which the use of the system was
3 required.

4 **§ A-10 Annual Report.** The department of transportation
5 shall monitor the use of ignition interlock systems and shall
6 submit a report to the legislature no later than twenty days
7 prior to the convening of the 2010 regular session, on the
8 implementation, use, and effectiveness of ignition interlock
9 systems."

10 SECTION 3. Section 291E-61, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"PART IV. PROHIBITED CONDUCT**

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

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



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

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

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

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

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

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

20 ~~[-(B) Ninety day prompt suspension of license and~~
21 ~~privilege to operate a vehicle during the~~
22 ~~suspension period, or the court may impose, in~~



1 ~~lieu of the ninety day prompt suspension of~~
2 ~~license, a minimum thirty day prompt suspension~~
3 ~~of license with absolute prohibition from~~
4 ~~operating a vehicle and, for the remainder of the~~
5 ~~ninety 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 ~~substance abuse treatment programs;~~

9 ~~(C)]~~ (B) 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; or

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

15 ~~[(D)]~~ (C) A surcharge of \$25 to be deposited into the
16 neurotrauma special fund; and

17 (D) Connection of an ignition interlock system to the
18 offender's vehicle for one year pursuant to
19 chapter ; provided that if an offender
20 violates any provision of chapter , the court
21 shall promptly suspend the offender's license and
22 privilege to operate a vehicle for the rest of



1 the period of time an ignition interlock system
2 was required to be connected.

3 (2) For a first offense committed by a highly intoxicated
4 driver, or for any offense committed by a highly
5 intoxicated driver not preceded within a five-year
6 period by a conviction for an offense under this
7 section or section 291E-4(a):

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

12 ~~[(B) Prompt suspension of a license and privilege to~~
13 ~~operate a vehicle for a period of six months with~~
14 ~~an absolute prohibition from operating a vehicle~~
15 ~~during the suspension period;~~

16 ~~(C)]~~ (B) Any one or more of the following:

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

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

20 (iii) A fine of not less than \$150 but not more
21 than \$1,000; [and]



1 least forty-eight hours shall be served
2 consecutively;

3 [~~(C)~~] (B) A fine of not less than \$500 but not more than
4 \$1,500; [~~and~~]

5 [~~(D)~~] (C) A surcharge of \$25 to be deposited into the
6 neurotrauma special fund; and

7 (D) Connection of an ignition interlock system to the
8 offender's vehicle for two years pursuant to
9 chapter ; provided that if an offender
10 violates any provision of chapter , the court
11 shall promptly suspend the offender's license and
12 privilege to operate a vehicle for the rest of
13 the period of time an ignition interlock system
14 was required to be connected.

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

18 (A) A fine of [~~not less than \$500 but not more than~~]
19 \$2,500;

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



- 1 (C) Not less than ten days but not more than thirty
2 days imprisonment of which at least [~~forty-eight~~]
3 seventy-two hours shall be served consecutively;
- 4 (D) A surcharge of [~~\$25~~] \$500 to be deposited into
5 the neurotrauma special fund; and
- 6 (E) Forfeiture under chapter 712A of the vehicle
7 owned and operated by the person committing the
8 offense; provided that the department of
9 transportation shall provide storage for vehicles
10 forfeited under this subsection; and
- 11 (5) Any person eighteen years of age or older who is
12 convicted under this section and who operated a
13 vehicle with a passenger, in or on the vehicle, who
14 was younger than fifteen years of age, shall be
15 sentenced to an additional mandatory fine of [~~\$500~~]
16 \$1,000 and an additional mandatory term of
17 imprisonment of [~~forty-eight~~] seventy-two hours;
18 provided that the total term of imprisonment for a
19 person convicted under this paragraph shall not exceed
20 the maximum term of imprisonment provided in paragraph
21 (1), (3), or (4).
- 22 (c) Notwithstanding any other law to the contrary, any:



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

3 (2) Conviction in any other state or federal jurisdiction
4 for an offense that is comparable to operating or
5 being in physical control of a vehicle while having
6 either an unlawful alcohol concentration or an
7 unlawful drug content in the blood or urine or while
8 under the influence of an intoxicant or habitually
9 operating a vehicle under the influence of an
10 intoxicant; or

11 (3) Adjudication of a minor for a law violation that, if
12 committed by an adult, would constitute a violation of
13 this section or an offense under section 291E-4(a), or
14 section 291E-61.5;

15 shall be considered a prior conviction for the purposes of
16 imposing sentence under this section. Any judgment on a verdict
17 or a finding of guilty, a plea of guilty or nolo contendere, or
18 an adjudication in the case of a minor, that at the time of the
19 offense has not been expunged by pardon, reversed, or set aside
20 shall be deemed a prior conviction under this section. No
21 license and privilege suspension or revocation shall be imposed
22 pursuant to this section if the person's license and privilege



1 to operate a vehicle has previously been administratively
2 revoked pursuant to part III for the same act; provided that, if
3 the administrative suspension or revocation is subsequently
4 reversed, the person's license and privilege to operate a
5 vehicle shall be suspended or revoked as provided in this
6 section.

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

18 (e) Notwithstanding any other law to the contrary,
19 whenever a court revokes a person's driver's license pursuant to
20 this section, the examiner of drivers shall not grant to the
21 person a new driver's license until the expiration of the period
22 of revocation determined by the court. After the period of



1 revocation is completed, the person may apply for and the
2 examiner of drivers may grant to the person a new driver's
3 license.

4 (f) Any person sentenced under this section may be ordered
5 to reimburse the county for the cost of any blood or urine tests
6 conducted pursuant to section 291E-11. The court shall order
7 the person to make restitution in a lump sum, or in a series of
8 prorated installments, to the police department or other agency
9 incurring the expense of the blood or urine test.

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

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

15 SECTION 4. Section 291E-64, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§291E-64 Operating a vehicle after consuming a measurable**
18 **amount of alcohol; persons under the age of twenty-one.** (a) It
19 shall be unlawful for any person under the age of twenty-one
20 years to operate any vehicle with a measurable amount of
21 alcohol. A law enforcement officer may arrest a person under
22 this section when the officer has probable cause to believe the



1 arrested person is under the age of twenty-one and had been
2 operating a vehicle upon a public way, street, road, or highway
3 or on or in the waters of the State with a measurable amount of
4 alcohol.

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]~~ Connection of an ignition
10 interlock system to the offender's vehicle
11 for one year pursuant to chapter _____ ;
12 provided that if an offender violates any
13 provision of chapter _____ , the court shall
14 promptly suspend the offender's license and
15 privilege to operate a vehicle for the rest
16 of the period of time an ignition interlock
17 system was required to be connected; and

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

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



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

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

5 (A) The court shall impose [~~prompt suspension of~~
6 ~~license and privilege to operate a vehicle for a~~
7 ~~period of one year with absolute prohibition from~~
8 ~~operating a vehicle during the suspension period]~~
9 connection of an ignition interlock system to the
10 offender's vehicle for two years pursuant to
11 chapter ; provided that if an offender
12 violates any provision of chapter , the court
13 shall promptly suspend the offender's license and
14 privilege to operate a vehicle for the rest of
15 the period of time an ignition interlock system
16 was required to be connected; and

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

19 (i) Not more than fifty hours of community
20 service work; or

21 (ii) A fine of not less than \$300 but not more
22 than \$1,000;



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

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

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

8 (i) Not more than one hundred hours of community
9 service work; or

10 (ii) A fine of not less than \$300 but not more
11 than \$1,000;

12 (c) Notwithstanding any other law to the contrary, any
13 conviction or plea under this section shall be considered a
14 prior alcohol enforcement contact.

15 (d) Whenever a court sentences a person pursuant to
16 subsection (b) (2) or (3), it also shall require that the person
17 be referred to the driver's education program for an assessment,
18 by a certified substance abuse counselor, of the person's
19 alcohol abuse or dependence and the need for appropriate
20 treatment. The counselor shall submit a report with
21 recommendations to the court. The court shall require the
22 person to obtain appropriate treatment if the counselor's



1 assessment establishes the person's alcohol abuse or dependence.
2 All costs for assessment and treatment shall be borne by the
3 person or by the person's parent or guardian, if the person is
4 under the age of eighteen.

5 (e) Notwithstanding section 831-3.2 or any other law to
6 the contrary, a person convicted of a first-time violation under
7 subsection (b)(1), who had no prior alcohol enforcement
8 contacts, may apply to the court for an expungement order upon
9 attaining the age of twenty-one, or thereafter, if the person
10 has fulfilled the terms of the sentence imposed by the court and
11 has had no subsequent alcohol or drug related enforcement
12 contacts.

13 (f) Notwithstanding any other law to the contrary,
14 whenever a court revokes a person's driver's license pursuant to
15 this section, the examiner of drivers shall not grant to the
16 person an application for a new driver's license for a period to
17 be determined by the court.

18 (g) Any person sentenced under this section may be ordered
19 to reimburse the county for the cost of any blood tests
20 conducted pursuant to section 291E-11. The court shall order
21 the person to make restitution in a lump sum, or in a series of



1 prorated installments, to the police department or other agency
2 incurring the expense of the blood test.

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

6 (i) Any person who violates this section shall be guilty
7 of a violation.

8 (j) As used in this section, the terms "driver's license"
9 and "examiner of drivers" have the same meanings as provided in
10 section 286-2."

11 SECTION 5. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$ or so
13 much thereof as may be necessary for fiscal year 2008-2009 for
14 the purpose of creating a program within the department of
15 health that would subsidize half the cost of the first
16 breathalyzer purchased by a business that sells alcoholic
17 beverages for consumption on premises.

18 The sum appropriated shall be expended by the department of
19 health for the purposes of this Act.

20 SECTION 6. The working group created to study the
21 feasibility of requiring vehicle ignition interlock devices for
22 convicted drunk drivers pursuant to House Concurrent Resolution



1 No. 28, House Draft 1, Regular Session of Hawaii 2007 shall be
 2 extended so as to be able to continue its work through the end
 3 of 2008. The legislative reference bureau shall extend
 4 assistance to the working group for the purpose of drafting
 5 legislation.

6 SECTION 7. This Act does not affect rights and duties that
 7 matured, penalties that were incurred, and proceedings that were
 8 begun, before its effective date.

9 SECTION 8. Statutory material to be repealed is bracketed
 10 and stricken. New statutory material is underscored.

11 SECTION 9. This Act shall take effect on January 1, 2009,
 12 except that section 5 of this Act shall take effect on July 1,
 13 2008, and section 6 of this Act shall take effect upon approval.

14
 15

INTRODUCED BY:

Gene Ward

Carrie W. King *Karen Awarua*
John *Karl*
Colleen May



Report Title:

Safety

Description:

Establishes an ignition interlock program. Appropriates funds for subsidization of first breathalyzer purchased by bars. Extends time period for ignition interlock working group.

