

JAN 22 2008

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

1 PART I.

2 SECTION 1. The legislature finds that the legislature has
3 attempted to heighten pedestrian safety through various
4 proposals over the past several years. While each has been
5 successful in some ways, pedestrians continue to die on Hawaii's
6 streets as a result of accidents involving motor vehicles. The
7 mandate of legislation, in and of itself, does not alter
8 behavior or inattention to driving, consequences do.

9 Accordingly, the purpose of this Act, to be known as the "Road
10 Responsibility Act of 2008", and more specifically, this part,
11 is to heighten the penalties for certain traffic offenses such
12 that the consequences of noncompliance are severe enough to
13 alter the unsafe driving behaviors that kill pedestrians.

14 SECTION 2. Section 291C-12, Hawaii Revised Statutes, is
15 amended by amending subsection (d) to read as follows:

16 "(d) For any violation under this section, a surcharge of
17 [~~\$500~~] \$5,000 shall be imposed, in addition to any other



1 penalties, and shall be deposited into the neurotrauma special
2 fund."

3 SECTION 3. Section 291C-12.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§291C-12.5 Accidents involving substantial bodily injury.**

6 (a) The driver of any vehicle involved in an accident resulting
7 in substantial bodily injury to any person shall immediately
8 stop the vehicle at the scene of the accident or as close
9 thereto as possible but shall then forthwith return to and in
10 every event shall remain at the scene of the accident until the
11 driver has fulfilled the requirements of section 291C-14. Every
12 such stop shall be made without obstructing traffic more than is
13 necessary.

14 (b) Any person who violates subsection (a) shall be guilty
15 of a class C felony.

16 (c) For any violation under this section, a surcharge of
17 [~~\$250~~ \$1,000] shall be imposed, in addition to any other
18 penalties, and shall be deposited into the neurotrauma special
19 fund.

20 (d) The license or permit to drive and any nonresident
21 operating privilege of the person so convicted shall be
22 revoked."



1 SECTION 4. Section 291C-12.6, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) For any violation under this section, a surcharge of
4 [~~\$100~~] \$250 shall be imposed, in addition to any other
5 penalties, and shall be deposited into the neurotrauma special
6 fund."

7 SECTION 5. Section 291C-13, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§291C-13 Accidents involving damage to vehicle or**
10 **property.** (a) The driver of any vehicle involved in an accident
11 resulting only in damage to a vehicle or other property that is
12 driven or attended by any person shall immediately stop such
13 vehicle at the scene of the accident or as close thereto as
14 possible, but shall forthwith return to, and in every event
15 shall remain at, the scene of the accident until the driver has
16 fulfilled the requirements of section 291C-14. Every such stop
17 shall be made without obstructing traffic more than is
18 necessary.

19 (b) Any person who violates subsection (a) shall be guilty
20 of a petty misdemeanor.

21 (c) For any violation under this section, a surcharge of
22 \$100 shall be imposed, in addition to any other penalties."



1 SECTION 6. Section 291C-72, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "**§291C-72 Pedestrians' right-of-way in crosswalks.**

4 (e) Every person who violates this section shall be
5 subject to the following penalties:

- 6 (1) For a first infraction, or any infraction not preceded
7 within one year by a prior violation of this section,
8 a fine of [~~\$150~~] \$250;
- 9 (2) For an infraction that occurs within one year of a
10 prior violation of this section, a fine of [~~\$300~~] \$500
11 and revocation of the person's driver's license and
12 privilege to operate a vehicle for a period of
13 [~~ninety~~] one hundred eighty days; and
- 14 (3) For an infraction that occurs within two years of two
15 prior violations of this section, and for the fourth
16 and each additional infraction of this section,
17 regardless of when committed, a fine of [~~\$1,000,~~
18 \$1,500, and revocation of the person's driver's
19 license and privilege to operate a vehicle [~~for a~~
20 ~~period of one hundred eighty days~~]."

21 SECTION 7. Section 291C-105, Hawaii Revised Statutes, is
22 amended by amending subsection (c) to read as follows:



1 "(c) Any person who violates this section shall be guilty
2 of a petty misdemeanor and shall be sentenced as follows without
3 the possibility of probation or suspension of sentence:

4 (1) For a first offense not preceded by a prior conviction
5 for an offense under this section in the preceding
6 five years:

7 (A) A fine of [~~not less than \$500 and not more than~~
8 \$1,000;

9 (B) [~~Thirty-day~~] Sixty-day prompt suspension of
10 license and privilege to operate a vehicle during
11 the suspension period, or the court may impose,
12 in lieu of the [~~thirty-day~~] sixty-day prompt
13 suspension of license, a minimum [~~fifteen-day~~]
14 thirty-day prompt suspension of license with
15 absolute prohibition from operating a vehicle
16 and, for the remainder of the [~~thirty-day~~] sixty-
17 day period, a restriction on the license that
18 allows the person to drive for limited
19 work-related purposes;

20 (C) Attendance in a course of instruction in driver
21 retraining;



- 1 (D) A surcharge of [~~\$25~~] \$100 to be deposited into
- 2 the neurotrauma special fund;
- 3 (E) An assessment for driver education pursuant to
- 4 section 286G-3; and
- 5 (F) Either one of the following:
 - 6 (i) Thirty-six hours of community service work;
 - 7 or
 - 8 (ii) Not less than forty-eight hours and not more
 - 9 than five days of imprisonment;
- 10 (2) For an offense that occurs within five years of a
- 11 prior conviction for an offense under this section,
- 12 by:
 - 13 (A) A fine of [~~not less than \$750 and not more than~~
 - 14 \$1,000;
 - 15 (B) Prompt suspension of license and privilege to
 - 16 operate a vehicle for a period of [~~thirty~~] ninety
 - 17 days with an absolute prohibition from operating
 - 18 a vehicle during the suspension period;
 - 19 (C) Attendance in a course of instruction in driver
 - 20 retraining;
 - 21 (D) A surcharge of [~~\$25~~] \$200 to be deposited into
 - 22 the neurotrauma special fund;



- 1 (E) An assessment for driver education pursuant to
2 section 286G-3; and
- 3 (F) Either one of the following:
- 4 (i) Not less than one hundred twenty hours of
5 community service work; or
- 6 (ii) Not less than five days but not more than
7 fourteen days of imprisonment of which at
8 least forty-eight hours shall be served
9 consecutively; and
- 10 (3) For an offense that occurs within five years of two
11 prior convictions for offenses under this section, by:
- 12 (A) A fine of \$1,000;
- 13 (B) Revocation of license and privilege to operate a
14 vehicle for a period of not less than [~~ninety~~]
15 one hundred and eighty days but not more than one
16 year;
- 17 (C) Attendance in a course of instruction in driver
18 retraining;
- 19 (D) No fewer than ten days but no more than thirty
20 days of imprisonment of which at least
21 [~~forty-eight~~] seventy-two hours shall be served
22 consecutively;



- 1 (E) A surcharge of [~~\$25~~] \$250 to be deposited into
2 the neurotrauma special fund; and
3 (F) An assessment for driver education pursuant to
4 section 286G-3."

PART II.

6 SECTION 8. The legislature also finds that despite recent
7 efforts to pass legislation that reduces the incidence of
8 driving under the influence, traffic fatalities and accidents
9 caused by driving under the influence continue on the streets of
10 our state. Despite the negative consequences risked by those
11 that could be caught for driving under the influence, it is
12 obvious that some drivers choose to risk those consequences, and
13 the lives of other drivers and pedestrians. Driving under the
14 influence is not a victimless crime. It is akin to attempted
15 murder with a built in defense to proving the intent to commit
16 murder - an impaired state of mind. While it is ironic that an
17 integral part of the offense - intoxication or narcotics - also
18 provides what amounts to a defense to the much more serious
19 crime of murder or attempted murder, the damage caused by the
20 offense are nothing but tragic. Accordingly, the purpose of
21 this part is to amend state laws regarding driving under the
22 influence in such a way as to dramatically increase the negative



1 consequences of such behavior, and hopefully, deter such
2 behavior in the future.

3 SECTION 9. Section 291E-61, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "PART IV. PROHIBITED CONDUCT

6 §291E-61 Operating a vehicle under the influence of an
7 intoxicant. (a) A person commits the offense of operating a
8 vehicle under the influence of an intoxicant if the person
9 operates or assumes actual physical control of a vehicle:

- 10 (1) While under the influence of alcohol in an amount
11 sufficient to impair the person's normal mental
12 faculties or ability to care for the person and guard
13 against casualty;
- 14 (2) While under the influence of any drug that impairs the
15 person's ability to operate the vehicle in a careful
16 and prudent manner;
- 17 (3) With .08 or more grams of alcohol per two hundred ten
18 liters of breath; or
- 19 (4) With .08 or more grams of alcohol per one hundred
20 milliliters or cubic centimeters of blood.

21 (b) A person committing the offense of operating a vehicle
22 under the influence of an intoxicant shall be sentenced as



1 follows without possibility of probation or suspension of
2 sentence:

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

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

11 (B) [~~Ninety-day~~] One hundred eighty-day prompt
12 suspension of license and privilege to operate a
13 vehicle during the suspension period, or the
14 court may impose, in lieu of the [~~ninety-day~~] one
15 hundred eighty-day prompt suspension of license,
16 a minimum [~~thirty-day~~] sixty prompt suspension of
17 license with absolute prohibition from operating
18 a vehicle and, for the remainder of the
19 [~~ninety-day~~] one hundred eighty-day period, a
20 restriction on the license that allows the person
21 to drive for limited work-related purposes and to



- 1 participate in substance abuse treatment
2 programs;
- 3 (C) ~~[Any one or more]~~ All of the following:
- 4 (i) Seventy-two hours of community service work;
- 5 (ii) Not less than forty-eight hours and not more
6 than five days of imprisonment; or
- 7 (iii) A fine of ~~[not less than \$150 but not more~~
8 ~~than]~~ \$1,000; and
- 9 (D) A surcharge of ~~[\$25]~~ \$100 to be deposited into
10 the neurotrauma special fund;
- 11 (2) For a first offense committed by a highly intoxicated
12 driver, or for any offense committed by a highly
13 intoxicated driver not preceded within a five-year
14 period by a conviction for an offense under this
15 section or section 291E-4(a):
- 16 (A) A ~~[fourteen-hour]~~ forty-hour minimum substance
17 abuse rehabilitation program, including education
18 and counseling, or other comparable program
19 deemed appropriate by the court;
- 20 (B) Prompt suspension of a license and privilege to
21 operate a vehicle for a period of ~~[six]~~ twelve



- 1 months with an absolute prohibition from
2 operating a vehicle during the suspension period;
- 3 (C) [~~Any one or more~~] All of the following:
- 4 (i) Seventy-two hours of community service work;
- 5 (ii) Not less than forty-eight hours and not more
6 than five days of imprisonment; or
- 7 (iii) A fine of [~~not less than \$150 but not more~~
8 ~~than~~] \$1,000; [and]
- 9 (D) A surcharge of [~~\$25~~] \$100 to be deposited into
10 the neurotrauma special fund;
- 11 (3) For an offense that occurs within five years of a
12 prior conviction for an offense under this section or
13 section 291E-4(a) by:
- 14 (A) Prompt suspension of license and privilege to
15 operate a vehicle for a period of one year with
16 an absolute prohibition from operating a vehicle
17 during the suspension period;
- 18 (B) [~~Either~~] Both one of the following:
- 19 (i) Not less than two hundred forty hours of
20 community service work; or
- 21 (ii) Not less than five days but not more than
22 fourteen days of imprisonment of which at



- 1 least forty-eight hours shall be served
2 consecutively;
- 3 (C) A fine of [~~not less than \$500 but not more than~~
4 ~~\$1,500~~] \$2,000; [and]
- 5 (D) A surcharge of [~~\$25~~] \$200 to be deposited into
6 the neurotrauma special fund;
- 7 (4) For an offense that occurs within five years of two
8 prior convictions for offenses under this section or
9 section 291E-4(a):
- 10 (A) A fine of [~~not less than \$500 but not more than~~
11 ~~\$2,500~~] \$3,000;
- 12 (B) Revocation of license and privilege to operate a
13 vehicle for a period not less than [~~one year~~] two
14 years but not more than five years;
- 15 (C) Not less than ten days but not more than thirty
16 days imprisonment of which at least [~~forty-eight~~]
17 seventy-two hours shall be served consecutively;
- 18 (D) A surcharge of [~~\$25~~] \$500 to be deposited into
19 the neurotrauma special fund; and
- 20 (E) 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 (5) Any person eighteen years of age or older who is
4 convicted under this section and who operated a
5 vehicle with a passenger, in or on the vehicle, who
6 was younger than fifteen years of age, shall be
7 sentenced to an additional mandatory fine of [~~\$500~~
8 \$1,000 and an additional mandatory term of
9 imprisonment of [~~forty-eight~~ seventy-two hours;
10 provided that the total term of imprisonment for a
11 person convicted under this paragraph shall not exceed
12 the maximum term of imprisonment provided in paragraph
13 (1), (3), or (4).

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

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

17 (2) Conviction in any other state or federal jurisdiction
18 for an offense that is comparable to operating or
19 being in physical control of a vehicle while having
20 either an unlawful alcohol concentration or an
21 unlawful drug content in the blood or urine or while
22 under the influence of an intoxicant or habitually



1 operating a vehicle under the influence of an
2 intoxicant; or
3 (3) Adjudication of a minor for a law violation that, if
4 committed by an adult, would constitute a violation of
5 this section or an offense under section 291E-4(a), or
6 section 291E-61.5;
7 shall be considered a prior conviction for the purposes of
8 imposing sentence under this section. Any judgment on a verdict
9 or a finding of guilty, a plea of guilty or nolo contendere, or
10 an adjudication in the case of a minor, that at the time of the
11 offense has not been expunged by pardon, reversed, or set aside
12 shall be deemed a prior conviction under this section. No
13 license and privilege suspension or revocation shall be imposed
14 pursuant to this section if the person's license and privilege
15 to operate a vehicle has previously been administratively
16 revoked pursuant to part III for the same act; provided that, if
17 the administrative suspension or revocation is subsequently
18 reversed, the person's license and privilege to operate a
19 vehicle shall be suspended or revoked as provided in this
20 section.
21 (d) Whenever a court sentences a person pursuant to
22 subsection (b), it also shall require that the offender be



1 referred to the driver's education program for an assessment, by
2 a certified substance abuse counselor, of the offender's
3 substance abuse or dependence and the need for appropriate
4 treatment. The counselor shall submit a report with
5 recommendations to the court. The court shall require the
6 offender to obtain appropriate treatment if the counselor's
7 assessment establishes the offender's substance abuse or
8 dependence. All costs for assessment and treatment shall be
9 borne by the offender.

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

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



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

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

8 SECTION 10. Section 291E-61.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§291E-61.5 Habitually operating a vehicle under the**
11 **influence of an intoxicant.** (a) A person commits the offense
12 of habitually operating a vehicle under the influence of an
13 intoxicant if:

14 (1) The person is a habitual operator of a vehicle while
15 under the influence of an intoxicant; and

16 (2) The person operates or assumes actual physical control
17 of a vehicle:

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



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

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

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

8 (b) For the purposes of this section:

9 "Convicted three or more times for offenses of operating a
10 vehicle under the influence" means that, at the time of the
11 behavior for which the person is charged under this section, the
12 person had three or more times within ten years of the instant
13 offense:

14 (1) A judgment on a verdict or a finding of guilty, or a
15 plea of guilty or nolo contendere, for a violation of
16 this section or section 291-4, 291-4.4, or 291-7 as
17 those sections were in effect on December 31, 2001, or
18 section 291E-61 or 707-702.5;

19 (2) A judgment on a verdict or a finding of guilty, or a
20 plea of guilty or nolo contendere, for an offense that
21 is comparable to this section or section 291-4, 291-



1 4.4, or 291-7 as those sections were in effect on
2 December 31, 2001, or section 291E-61 or 707-702.5; or
3 (3) An adjudication of a minor for a law or probation
4 violation that, if committed by an adult, would
5 constitute a violation of this section or section 291-
6 4, 291-4.4, or 291-7 as those sections were in effect
7 on December 31, 2001, or section 291E-61 or 707-702.5;
8 that, at the time of the instant offense, had not been expunged
9 by pardon, reversed, or set aside. All convictions that have
10 been expunged by pardon, reversed, or set aside prior to the
11 instant offense shall not be deemed prior convictions for the
12 purposes of proving the person's status as a habitual operator
13 of a vehicle while under the influence of an intoxicant.

14 A person has the status of a "habitual operator of a
15 vehicle while under the influence of an intoxicant" if the
16 person has been convicted three or more times within ten years
17 of the instant offense, for offenses of operating a vehicle
18 under the influence of an intoxicant.

19 (c) Habitually operating a vehicle while under the
20 influence of an intoxicant is a class C felony.

21 (d) For a conviction under this section, the sentence
22 shall be either:



- 1 (1) An indeterminate term of imprisonment of five years
2 and a fine of not less than \$5,000; or
- 3 (2) A term of probation of five years, with conditions to
4 include:
- 5 (A) Mandatory revocation of license and privilege to
6 operate a vehicle for a period not less than [~~one~~
7 year] three years but not more than five years;
- 8 (B) Not less than [~~ten~~] fourteen days imprisonment,
9 of which at least [~~forty-eight~~] seventy-two hours
10 shall be served consecutively;
- 11 (C) Referral to a certified substance abuse counselor
12 as provided in section 291E-61(d); [~~and~~]
- 13 (D) A surcharge of [~~\$25~~] \$250 to be deposited into
14 the neurotrauma special fund;
- 15 (E) A fine of \$1,000.

16 In addition to the foregoing, any vehicle owned and operated by
17 the person committing the offense shall be subject to forfeiture
18 pursuant to chapter 712A, provided that the department of
19 transportation shall provide storage for vehicles forfeited
20 under this subsection.

21 (e) Whenever a court sentences a person under this
22 section, it shall also require that the offender be referred to



1 the driver's education program for an assessment, by a certified
2 substance abuse counselor, of the offender's substance abuse or
3 dependence and the need for appropriate treatment. The
4 counselor shall submit a report with recommendations to the
5 court. The court shall require the offender to obtain
6 appropriate treatment if the counselor's assessment establishes
7 the offender's substance abuse or dependence. All costs for
8 assessment and treatment shall be borne by the offender.

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

17 (g) Any person sentenced under this section [~~may~~] shall be
18 ordered to reimburse the county for the cost of any blood or
19 urine tests conducted pursuant to section 291E-11. The court
20 shall order the person to make restitution in a lump sum, or in
21 a series of prorated installments, to the police department or
22 other agency incurring the expense of the blood or urine test.



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

3 SECTION 11. Section 291E-62, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§291E-62 Operating a vehicle after license and privilege
6 have been suspended or revoked for operating a vehicle under the
7 influence of an intoxicant; penalties. (a) No person whose
8 license and privilege to operate a vehicle have been revoked,
9 suspended, or otherwise restricted pursuant to this section or
10 to part III or section 291E-61 or 291E-61.5, or to part VII or
11 part XIV of chapter 286 or section 200-81, 291-4, 291-4.4, 291-
12 4.5, or 291-7 as those provisions were in effect on December 31,
13 2001, shall operate or assume actual physical control of any
14 vehicle:

15 (1) In violation of any restrictions placed on the
16 person's license; or

17 (2) While the person's license or privilege to operate a
18 vehicle remains suspended or revoked.

19 (b) Any person convicted of violating this section shall
20 be sentenced as follows:

21 (1) For a first offense, or any offense not preceded
22 within a five-year period by conviction for an offense



1 under this section or under section 291-4.5 as that
2 section was in effect on December 31, 2001:

3 (A) A term of imprisonment of not less than [~~three~~]
4 five consecutive days but not more than [~~thirty~~]
5 sixty days;

6 (B) A fine of [~~not less than \$250 but not more than~~
7 ~~\$1,000~~] \$2,000; and

8 (C) Revocation of license and privilege to operate a
9 vehicle for an additional year;

10 (2) For an offense that occurs within five years of a
11 prior conviction for an offense under this section or
12 under section 291-4.5 as that section was in effect on
13 December 31, 2001:

14 (A) [~~Thirty~~] Sixty days imprisonment;

15 (B) A [~~\$1,000~~] \$2,000 fine; and

16 (C) Revocation of license and privilege to operate a
17 vehicle for an additional two years; and

18 (D) A surcharge of \$250 to be deposited into the
19 neurotrauma special fund;

20 (3) For an offense that occurs within five years of two or
21 more prior convictions for offenses under this section



- 1 or under section 291-4.5 as that section was in effect
2 on December 31, 2001:
- 3 (A) One year imprisonment;
 - 4 (B) A \$2,000 fine; and
 - 5 (C) A surcharge of \$1,000 to be deposited into the
6 neurotrauma special fund;
 - 7 [~~C~~] (D) Permanent revocation of the person's license and
8 privilege to operate a vehicle.

9 The period of revocation shall commence upon the release of the
10 person from the period of imprisonment imposed pursuant to this
11 section."

12 SECTION 12. Section 291E-64, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§291E-64 Operating a vehicle after consuming a measurable**
15 **amount of alcohol; persons under the age of twenty-one.** (a) It
16 shall be unlawful for any person under the age of twenty-one
17 years to operate any vehicle with a measurable amount of
18 alcohol. A law enforcement officer may arrest a person under
19 this section when the officer has probable cause to believe the
20 arrested person is under the age of twenty-one and had been
21 operating a vehicle upon a public way, street, road, or highway



1 or on or in the waters of the State with a measurable amount of
2 alcohol.

3 (b) A person who violates this section shall be sentenced
4 as follows:

5 (1) For a first violation or any violation not preceded
6 within a five-year period by a prior alcohol
7 enforcement contact:

8 (A) The court shall impose:

9 (i) A requirement that the person and, if the
10 person is under the age of eighteen, the
11 person's parent or guardian attend an
12 alcohol abuse education and counseling
13 program for not more than ~~ten~~ twenty
14 hours; and

15 (ii) A one hundred eighty-day prompt suspension
16 of license and privilege to operate a
17 vehicle with absolute prohibition from
18 operating a vehicle during the suspension
19 period, or in the case of a person eighteen
20 years of age or older, the court may impose,
21 in lieu of the one hundred eighty-day prompt
22 suspension of license, a minimum ~~thirty-~~



1 ~~day]~~ sixty-day prompt suspension of license
2 with absolute prohibition from operating a
3 vehicle and, for the remainder of the one
4 hundred eighty-day period, a restriction on
5 the license that allows the person to drive
6 for limited work-related purposes and to
7 participate in alcohol abuse education and
8 treatment programs; and

9 (B) In addition, the court [~~may~~] shall impose [~~any~~
10 ~~one or more of~~] the following:

11 (i) Not [~~more~~] less than [~~thirty-six~~] seventy-
12 two hours of community service work; [~~or~~]
13 and

14 (ii) A fine of [~~not less than \$150 but not more~~
15 ~~than~~] \$500;

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

18 (A) The court shall impose prompt suspension of
19 license and privilege to operate a vehicle for a
20 period of one year with absolute prohibition from
21 operating a vehicle during the suspension period;
22 and



1 (B) In addition, the court [~~may~~] shall impose [~~any~~
2 ~~of~~] the following:

3 (i) Not [~~more~~] less than [~~fifty~~] seventy-two
4 hours of community service work; [~~or~~] and

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

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

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

12 (B) In addition, the court [~~may~~] shall impose [~~any~~
13 ~~of~~] the following:

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

16 (ii) A fine of [~~not less than \$300 but not more~~
17 ~~than \$1,000~~] \$2,000;

18 (iii) A surcharge of \$500 to be deposited into the
19 neurotrauma special fund.

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



1 (d) Whenever a court sentences a person pursuant to
2 subsection (b)(2) or (3), it also shall require that the person
3 be referred to the driver's education program for an assessment,
4 by a certified substance abuse counselor, of the person's
5 alcohol 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 person to obtain appropriate treatment if the counselor's
9 assessment establishes the person's alcohol abuse or dependence.
10 All costs for assessment and treatment shall be borne by the
11 person or by the person's parent or guardian, if the person is
12 under the age of eighteen.

13 (e) Notwithstanding section 831-3.2 or any other law to
14 the contrary, a person convicted of a first-time violation under
15 subsection (b)(1), who had no prior alcohol enforcement
16 contacts, may apply to the court for an expungement order upon
17 attaining the age of twenty-one, or thereafter, if the person
18 has fulfilled the terms of the sentence imposed by the court and
19 has had no subsequent alcohol or drug related enforcement
20 contacts.

21 (f) Notwithstanding any other law to the contrary,
22 whenever a court revokes a person's driver's license pursuant to



1 this section, the examiner of drivers shall not grant to the
2 person an application for a new driver's license for a period to
3 be determined by the court.

4 (g) Any person sentenced under this section [~~may~~] shall be
5 ordered to reimburse the county for the cost of any blood 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 test.

10 (h) 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 (i) Any person who violates this section shall be guilty
14 of a violation.

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

18 SECTION 13. This Act does not affect rights and duties
19 that matured, penalties that were incurred, and proceedings that
20 were begun, before its effective date.

21 SECTION 14. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 15. This Act shall take effect on July 1, 2008.

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INTRODUCED BY:

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Report Title:

Public safety

Description:

Increases penalties for certain traffic infractions and driving under the influence.

