

JAN 23 2008

S.B. NO. 3261

A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

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

1 SECTION 1. Section 291E-1, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Ignition interlock device" means a device certified by
5 the director of transportation and approved for use pursuant to
6 section 321-161 and rules adopted thereunder that, when affixed
7 to the ignition system of a motor vehicle, prevents the vehicle
8 from being started without first testing, and thereafter from
9 being operated without periodically retesting, a deep-lung
10 breath sample of the person required to use the device that
11 indicates the person's alcohol concentration is less than .02."

12 SECTION 2. Section 291E-34, Hawaii Revised Statutes, is
13 amended by amending subsection (h) to read as follows:

14 "(h) The notice shall state that, if the administrative
15 revocation is sustained at the hearing, a written decision shall
16 be mailed to the respondent, or to the parent or guardian of the
17 respondent if the respondent is under the age of eighteen, that
18 shall contain, at a minimum, the following information:



- 1 (1) The effective date of the administrative revocation;
- 2 (2) The duration of the administrative revocation;
- 3 ~~[(3) If applicable, the date by which any outstanding motor~~
- 4 ~~vehicle number plates issued to the respondent must be~~
- 5 ~~surrendered to the director;~~
- 6 ~~(4) If applicable, that failure to surrender any motor~~
- 7 ~~vehicle number plates as required is a misdemeanor;~~
- 8 ~~+(5)] (3) Other conditions that may be imposed by law[+],~~
- 9 ~~including the use of an ignition interlock device; and~~
- 10 ~~[(6)] (4) The right to obtain judicial review."~~

11 SECTION 3. Section 291E-41, Hawaii Revised Statutes, is
 12 amended to read as follows:

13 "**§291E-41 Effective date, conditions, and period of**
 14 **administrative revocation; criteria.** (a) Unless an
 15 administrative revocation is reversed or the temporary permit[~~7~~
 16 ~~and temporary motor vehicle registration and temporary number~~
 17 ~~plates if applicable, are] is extended by the director,
 18 administrative revocation shall become effective on the day
 19 specified in the notice of administrative revocation. Except as
 20 provided in section 291E-44, no license and privilege to operate
 21 a vehicle[~~7~~ ~~nor motor vehicle registration and number plates if~~
 22 ~~applicable,~~] shall be restored under any circumstances[~~7~~ ~~and no~~~~



1 ~~conditional license permit shall be issued]~~ during the
2 administrative revocation period. Upon completion of the
3 administrative revocation period, the respondent may reapply and
4 be reissued a license pursuant to section 291E-45.

5 (b) Except as provided in paragraph (6), the respondent
6 shall keep an ignition interlock device installed and operating
7 on any vehicle the person operates during the revocation period.
8 Installation and maintenance of the ignition interlock device
9 shall be at the respondent's own expense. The periods of
10 administrative revocation with respect to a license and
11 privilege to operate a vehicle [~~, and motor vehicle registration~~
12 ~~if applicable,~~] that shall be imposed under this part are as
13 follows:

- 14 (1) A minimum of three months up to a maximum of one year
15 revocation of license and privilege to operate a
16 vehicle, if the respondent's record shows no prior
17 alcohol enforcement contact or drug enforcement
18 contact during the five years preceding the date the
19 notice of administrative revocation was issued;
- 20 (2) For a respondent who is a highly intoxicated driver,
21 if the respondent's record shows no prior alcohol
22 enforcement contact or drug enforcement contact during



1 the five years preceding the date the notice of
2 administrative revocation was issued, a minimum of six
3 months up to a maximum of one year revocation of
4 license and privilege to operate a vehicle [~~and of the~~
5 ~~registration of any motor vehicle registered to the~~
6 ~~highly intoxicated driver; provided that the highly~~
7 ~~intoxicated driver shall not qualify for a conditional~~
8 ~~license permit under section 291E-44]~~;

9 (3) A minimum of one year up to a maximum of two years
10 revocation of license and privilege to operate a
11 vehicle [~~and of the registration of any motor vehicle~~
12 ~~registered to the respondent]~~, if the respondent's
13 record shows one prior alcohol enforcement contact or
14 drug enforcement contact during the five years
15 preceding the date the notice of administrative
16 revocation was issued;

17 (4) A minimum of two years up to a maximum of four years
18 revocation of license and privilege to operate a
19 vehicle [~~and of the registration of any motor vehicle~~
20 ~~registered to the respondent]~~, if the respondent's
21 record shows two prior alcohol enforcement contacts or
22 drug enforcement contacts during the [~~seven~~] five



- 1 years preceding the date the notice of administrative
2 revocation was issued;
- 3 (5) Lifetime revocation of license and privilege to
4 operate a vehicle [~~and of the registration of any~~
5 ~~motor vehicle registered to the respondent and a~~
6 ~~lifetime prohibition on any subsequent registration of~~
7 ~~motor vehicles by the respondent~~], if the respondent's
8 record shows three or more prior alcohol enforcement
9 contacts or drug enforcement contacts during the [~~ten~~
10 five years preceding the date the notice of
11 administrative revocation was issued; or
- 12 (6) For respondents under the age of eighteen years who
13 were arrested for a violation of section 291E-61 or
14 291E-61.5, revocation of license and privilege to
15 operate a vehicle [~~either for the period remaining~~
16 ~~until the respondent's eighteenth birthday or, if~~
17 ~~applicable,~~] for the appropriate revocation period
18 provided in paragraphs (1) to (5) or in subsection
19 [~~(d), whichever is longer and such respondents shall~~
20 ~~not qualify for a conditional permit,~~] (c); provided
21 that the respondent shall be prohibited from driving
22 during the period preceding the respondent's



1 eighteenth birthday and shall thereafter be subject to
2 the ignition interlock requirement of this subsection
3 for the balance of the revocation period;

4 provided that when more than one administrative revocation,
5 suspension, or conviction arises out of the same arrest, it
6 shall be counted as only one prior alcohol enforcement contact
7 or drug enforcement contact, whichever revocation, suspension,
8 or conviction occurs later.

9 ~~[(c) Whenever a motor vehicle registration is revoked~~
10 ~~under this part, the director shall cause the revocation to be~~
11 ~~entered electronically into the motor vehicle registration file~~
12 ~~of the respondent.~~

13 ~~(d)]~~ (c) If a respondent has refused to be tested after
14 being informed:

- 15 (1) That the person may refuse to submit to testing in
16 compliance with section 291E-11; and
17 (2) Of the sanctions of this part and then asked if the
18 person still refuses to submit to a breath, blood, or
19 urine test, in compliance with the requirements of
20 section 291E-15,



1 the revocation imposed under subsection (b) (1), (3), (4), and
2 (5) shall be for a period of one year, two years, four years,
3 and a lifetime, respectively.

4 [~~(e)~~ In addition to subsection (d), any motor vehicle
5 registration of a respondent who is a repeat intoxicated driver
6 and who refused to be tested after being informed:

7 (1) That the person may refuse to submit to testing in
8 compliance with section 291E-11; and

9 (2) Of the sanctions of this part and then asked if the
10 person still refuses to submit to a breath, blood, or
11 urine test, in compliance with the requirements of
12 section 291E-15,

13 shall be revoked for the periods specified in subsection (d),
14 and the respondent shall be prohibited from subsequently
15 registering any motor vehicle for the applicable revocation
16 period.

17 ~~(f)]~~ (d) Whenever a license and privilege to operate a
18 vehicle is administratively revoked under this part, the
19 respondent shall be referred to the driver's education program
20 for an assessment, by a certified substance abuse counselor, of
21 the respondent's substance abuse or dependence and the need for
22 treatment. The counselor shall submit a report with



1 recommendations to the director. If the counselor's assessment
2 establishes that the extent of the respondent's substance abuse
3 or dependence warrants treatment, the director shall so order.
4 All costs for assessment and treatment shall be paid by the
5 respondent.

6 [~~g~~] (e) Alcohol and drug enforcement contacts that
7 occurred prior to January 1, 2002, shall be counted in
8 determining the administrative revocation period.

9 [~~h~~] (f) The requirement to provide proof of financial
10 responsibility pursuant to section 287-20 shall not be based
11 upon a revocation under subsection (b)(1)."

12 SECTION 4. Section 291E-44, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§291E-44 [Conditional license] Ignition interlock**
15 **permits~~[-]~~; driving for employment.**

16 (a) (1) [~~During the administrative hearing, the director,~~
17 ~~at the request of a respondent who is subject to~~
18 ~~administrative revocation for a period as provided in~~
19 ~~section 291E-41(b)(1), may] Except as provided in
20 paragraph (2), upon proof that the respondent has
21 installed an ignition interlock device in the
22 respondent's vehicle, the director shall issue [a~~



1 ~~conditional license~~] an ignition interlock permit that
 2 will allow the respondent [~~, after a minimum period of~~
 3 ~~absolute license revocation of thirty days,~~] to drive
 4 [~~for the remainder of~~] a vehicle equipped with an
 5 ignition interlock device during the revocation
 6 period [~~, provided that one or more of the following~~
 7 ~~conditions are met:~~

8 (A) ~~The respondent is gainfully employed in a~~
 9 ~~position that requires driving and will be~~
 10 ~~discharged if the respondent's driving privileges~~
 11 ~~are administratively revoked; or~~

12 (B) ~~The respondent has no access to alternative~~
 13 ~~transportation and therefore must drive to work~~
 14 ~~or to a substance abuse treatment facility or~~
 15 ~~counselor for treatment ordered by the director~~
 16 ~~under section 291E-41]; or~~

17 (2) Notwithstanding any other law to the contrary, the
 18 director shall not issue [~~a conditional license~~] an
 19 ignition interlock permit to:

20 (A) A respondent whose license [~~, during the~~
 21 ~~conditional license permit period,~~] is expired,
 22 suspended, or revoked as a result of action other



1 than the instant revocation [~~for which the~~
2 ~~respondent is requesting a conditional license~~
3 ~~permit under this section;~~

4 ~~(B) A respondent who has refused breath, blood, or~~
5 ~~urine tests for purposes of determining alcohol~~
6 ~~concentration or drug content of the person's~~
7 ~~breath, blood, or urine, as applicable;~~

8 ~~(C) A respondent who is a highly intoxicated driver,~~
9 ~~and]; or~~

10 ~~[(D)]~~ (B) A respondent who holds either a category 4
11 license under section 286-102(b) or a commercial
12 driver's license under section 286-239(b) [~~unless~~
13 ~~the conditional license permit is restricted to a~~
14 ~~category 1, 2, or 3 license under section~~
15 ~~286-102(b)].~~

16 [~~(b) A request made pursuant to subsection [(a)(1)(A)]~~
17 ~~shall be accompanied by:]~~

18 (b) (1) The director may issue a separate permit
19 authorizing a respondent to operate a vehicle owned by
20 the respondent's employer during the period of
21 revocation without installation of an ignition
22 interlock device if the respondent is gainfully



1 employed in a position that requires driving and the
2 respondent will be discharged if prohibited from
3 driving a vehicle not equipped with an ignition
4 interlock device.

5 (2) A request made pursuant to paragraph (1) shall be
6 accompanied by:

7 ~~[(1)]~~ (A) A sworn statement from the respondent containing
8 facts establishing that the respondent currently
9 is employed in a position that requires driving
10 and that the respondent will be discharged if
11 ~~[not allowed to drive,]~~ prohibited from driving a
12 vehicle not equipped with an ignition interlock
13 device; and

14 ~~[(2)]~~ (B) A sworn statement from the respondent's employer
15 establishing that the employer will, in fact,
16 discharge the respondent if the respondent is
17 prohibited from driving~~[-]~~ a vehicle not equipped
18 with an ignition interlock device and identifying
19 the specific vehicle and hours of the day the
20 respondent will drive, not to exceed twelve hours
21 per day, for purposes of employment.



1 ~~[(c) A request made pursuant to subsection [(a)(1)(B)]~~
2 ~~shall be accompanied by a sworn statement by the respondent~~
3 ~~attesting to the specific facts upon which the request is based,~~
4 ~~which statement shall be verified by the director.~~

5 ~~(d) A conditional license may]~~ (c) A permit issued
6 pursuant to subsection (b) shall include restrictions allowing
7 the respondent to drive:

8 (1) Only during specified hours of employment, not to
9 exceed twelve hours per day, and only for activities
10 solely within the scope of the employment;

11 (2) Only ~~[during daylight hours; or]~~ the vehicle
12 specified; and

13 (3) Only ~~[for specified purposes or to specified~~
14 destinations] if the permit is kept in the
15 respondent's possession while operating the employer's
16 vehicle.

17 In addition, the director may impose any other appropriate
18 restrictions.

19 ~~[(c) The duration of the conditional license permit shall~~
20 ~~be determined on the basis of the criteria set forth in~~
21 ~~subsections (b) and (c).~~



1 ~~(f) If the respondent violates the conditions imposed~~
2 ~~under this section, the conditional license permit shall be~~
3 ~~rescinded, and administrative revocation shall be immediate for~~
4 ~~the appropriate period authorized by law.]"~~

5 SECTION 5. Section 291E-61, Hawaii Revised Statutes, is
6 amended to read as follows:

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

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



1 (b) A person committing the offense of operating a vehicle
2 under the influence of an intoxicant shall be sentenced as
3 follows [~~without possibility of probation or suspension of~~
4 ~~sentence~~]:

5 (1) Except as provided in [~~paragraph~~] paragraphs (2) [~~7~~]
6 and (5), for the first offense, or any offense not
7 preceded within a five-year period by a conviction for
8 an offense under this section or section 291E-4(a) [~~+~~],
9 and notwithstanding section 706-623, by probation for
10 not less than one year nor more than two years on the
11 following conditions:

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

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



1 ~~ninety-day period, a restriction on the license~~
2 ~~that allows the person to drive for limited~~
3 ~~work-related purposes and to participate in~~
4 ~~substance-abuse treatment programs,]~~ One-year
5 revocation of license and privilege to operate a
6 vehicle during the revocation period and
7 installation during the revocation period of an
8 ignition interlock device on any vehicle operated
9 by the person;

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

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

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

14 (iii) A fine of not less than \$150 but not more
15 than \$1,000; 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) [+], and notwithstanding



1 section 706-623, by probation for not less than two
2 years nor more than four years on the following
3 conditions:

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;] Two-year
12 revocation of license and privilege to operate a
13 vehicle during the revocation period and
14 installation during the revocation period of an
15 ignition interlock device on any vehicle operated
16 by the person;~~

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

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

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

21 (iii) A fine of not less than \$150 but not more
22 than \$1,000; 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+~~], and notwithstanding section
- 6 706-623, by probation for not less than two years nor
- 7 more than four years on the following conditions:
- 8 (A) [~~Prompt suspension of license and privilege to~~
- 9 ~~operate a vehicle for a period of one year with~~
- 10 ~~an absolute prohibition from operating a vehicle~~
- 11 ~~during the suspension period;] Two-year~~
- 12 revocation of license and privilege to operate a
- 13 vehicle during the revocation period and
- 14 installation during the revocation period of an
- 15 ignition interlock device on any vehicle operated
- 16 by the person;
- 17 (B) Either one of the following:
- 18 (i) Not less than two hundred forty hours of
- 19 community service work; or
- 20 (ii) Not less than five days but not more than
- 21 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; and

5 (D) A surcharge of \$25 to be deposited into the
6 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) [+], and notwithstanding section
10 706-623, by probation for not less than three years
11 nor more than five years on the following conditions:

12 (A) A fine of not less than \$500 but not more than
13 \$2,500;

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;~~] Three-year revocation
17 of license and privilege to operate a vehicle
18 during the revocation period and installation
19 during the revocation period of an ignition
20 interlock device on any vehicle operated by the
21 person;



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

4 (D) A surcharge of \$25 to be deposited into the
5 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~~] In addition to a sentence imposed under
12 paragraphs (1) through (4), any person eighteen years
13 of age or older who is convicted under this section
14 and who operated a vehicle with a passenger, in or on
15 the vehicle, who was younger than fifteen years of
16 age, shall be sentenced to an additional mandatory
17 fine of \$500 and an additional mandatory term of
18 imprisonment of forty-eight hours; provided that the
19 total term of imprisonment for a person convicted
20 under this paragraph shall not exceed the maximum term
21 of imprisonment provided in paragraph (1), (3), or
22 (4). Notwithstanding paragraph (1), the probation



1 period for a person sentenced under this paragraph
2 shall be not less than two years.

3 (c) Notwithstanding any other law to the contrary, the
4 court shall not issue an ignition interlock permit to:

5 (1) A defendant whose license is expired, suspended, or
6 revoked as a result of action other than the instant
7 offense; or

8 (2) A defendant who holds either a category 4 license
9 under section 286-102(b) or a commercial driver's
10 license under section 286-239(b).

11 (d) The court may issue a separate permit authorizing a
12 defendant to operate a vehicle owned by the defendant's employer
13 during the period of revocation without installation of an
14 ignition interlock device if the defendant is gainfully employed
15 in a position that requires driving and the defendant will be
16 discharged if prohibited from driving a vehicle not equipped
17 with an ignition interlock device.

18 (e) A request made pursuant to subsection (d) shall be
19 accompanied by:

20 (1) A sworn statement from the defendant containing facts
21 establishing that the defendant currently is employed
22 in a position that requires driving and that the



1 defendant will be discharged if prohibited from
2 driving a vehicle not equipped with an ignition
3 interlock device; and

4 (2) A sworn statement from the defendant's employer
5 establishing that the employer will, in fact,
6 discharge the defendant if the defendant is prohibited
7 from driving a vehicle not equipped with an ignition
8 interlock device and identifying the specific vehicle
9 and hours of the day, not to exceed twelve hours per
10 day, the defendant will drive for purposes of
11 employment.

12 (f) A permit issued pursuant to subsection (d) shall
13 include restrictions allowing the defendant to drive:

14 (1) Only during specified hours of employment, not to
15 exceed twelve hours per day, and only for activities
16 solely within the scope of the employment;

17 (2) Only the vehicle specified; and

18 (3) Only if the permit is kept in the defendant's
19 possession while operating the employer's vehicle.

20 [+e+] (g) Notwithstanding any other law to the contrary,
21 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)]~~ (h) 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)]~~ (i) Upon proof that the defendant has installed an
19 ignition interlock device in the defendant's vehicle pursuant to
20 subsection (b), the court shall issue an ignition interlock
21 permit that will allow the defendant to drive a vehicle equipped
22 with an ignition interlock device during the revocation period.



1 (j) Notwithstanding any other law to the contrary,
2 whenever a court revokes a person's driver's license pursuant to
3 this section, the examiner of drivers shall not grant to the
4 person a new driver's license until the expiration of the period
5 of revocation determined by the court. After the period of
6 revocation is completed, the person may apply for and the
7 examiner of drivers may grant to the person a new driver's
8 license.

9 [~~(f)~~] (k) Any person sentenced under this section may be
10 ordered to reimburse the county for the cost of any blood or
11 urine tests conducted pursuant to section 291E-11. The court
12 shall order the person to make restitution in a lump sum, or in
13 a series of prorated installments, to the police department or
14 other agency incurring the expense of the blood or urine test.
15 Installation and maintenance of the ignition interlock device
16 required by subsection (b) shall be at the defendant's own
17 expense.

18 [~~(g)~~] (l) The requirement to provide proof of financial
19 responsibility pursuant to section 287-20 shall not be based
20 upon a sentence imposed under subsection (b)(1).

21 [~~(h)~~] (m) As used in this section, the term "examiner of
22 drivers" has the same meaning as provided in section 286-2."



1 SECTION 6. Section 291E-62, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) No person whose license and privilege to operate a
4 vehicle have been revoked, suspended, or otherwise restricted
5 pursuant to this section or to part III or section 291E-61 or
6 291E-61.5, or to part VII or part XIV of chapter 286 or section
7 200-81, 291-4, 291-4.4, 291-4.5, or 291-7 as those provisions
8 were in effect on December 31, 2001, shall operate or assume
9 actual physical control of any vehicle:

- 10 (1) In violation of any restrictions placed on the
- 11 person's license; [~~or~~]
- 12 (2) While the person's license or privilege to operate a
- 13 vehicle remains suspended or revoked[~~+~~];
- 14 (3) Without installing an ignition interlock device
- 15 required by this chapter; or
- 16 (4) After disabling or circumventing an ignition
- 17 interlock."

18 SECTION 7. Section 321-161, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§321-161 Chemical testing for alcohol concentration or**
21 **drug content.** (a) The department of health shall establish and
22 administer a statewide program relating to chemical testing of



1 alcohol concentrations or drug content for the purposes of
2 chapters 286, 291, 291C, and 291E, with the consultation of the
3 state director of transportation. Under the program,
4 appropriate procedures shall be established for specifying:

- 5 (1) The qualifications of personnel who administer
6 chemical tests used to determine alcohol
7 concentrations or drug content;
- 8 (2) The procedures for specimen selection, collection,
9 handling, and analysis; and
- 10 (3) The manner of reporting and tabulating the results.

11 (b) The program shall include standards and procedures for
12 the certification of ignition interlock devices installed
13 pursuant to chapter 291E and for vendors who install and
14 maintain them. At a minimum, the standards shall require that
15 the device:

- 16 (1) Operate using an alcohol-specific sensor technology;
- 17 (2) Employ a digital camera by which a photograph of the
18 person using the device can be incorporated into the
19 electronic record generated by each use of the device;
- 20 (3) Require a rolling retest by which the driver must,
21 within a specified period of time or distance driven
22 after starting the vehicle, be retested and found to



- 1 have an alcohol concentration of less than .02, with a
2 margin of error of .01;
- 3 (4) Generate a record of vehicle usage, including dates,
4 times, and distances driven; and
- 5 (5) Meet or exceed any applicable standards of the
6 National Highway Traffic Safety Administration.
- 7 (c) The program shall include standards and procedures for
8 the certification for vendors who install and maintain ignition
9 interlock devices pursuant to chapter 291E. At a minimum, the
10 standards shall require that a vendor:
- 11 (1) Offer or contract for ignition interlock device
12 installation and maintenance statewide;
- 13 (2) Train drivers required to install an ignition
14 interlock device pursuant to chapter 291E how to use
15 the device;
- 16 (3) Schedule the driver for all necessary readings and
17 maintenance of the device; and
- 18 (4) Provide periodic reports regarding the use of each
19 ignition interlock device installed pursuant to
20 chapter 291E, including incidents of test failure,
21 attempts to circumvent the device, and dates, times,
22 and distances the vehicle was driven.



1 (d) Each vendor who sells or installs an ignition
2 interlock device pursuant to chapter 291E shall be certified
3 annually by the director of transportation pursuant to this
4 section and the rules adopted under it. The vendor shall pay a
5 certification fee to the director of transportation.

6 [~~(b)~~] (e) The director of health [~~may~~] shall adopt rules
7 pursuant to chapter 91 necessary for the purposes of this
8 section."

9 SECTION 8. The judiciary shall identify before July 1,
10 2009, by request for proposal issued pursuant to chapter 103D,
11 Hawaii Revised Statutes, a single vendor to provide, at no cost
12 to the State, the ignition interlock device installation and
13 maintenance service required by this Act. The vendor's product
14 and service shall comply with the requirements of section
15 321-161, Hawaii Revised Statutes, as amended by this Act, and
16 the cost of installation and maintenance services shall be borne
17 entirely by the driver required to install the ignition
18 interlock device.

19 SECTION 9. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun, before its effective date.



1 SECTION 10. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 11. This Act shall take effect on July 1, 2008;
4 provided that sections 1 through 7 shall take effect on July 1,
5 2009.

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INTRODUCED BY: Will Eym

For member Therese G. Monroe

Therese Owen Oakland

Carol Fulkerson

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Report Title:

Highway Safety; Ignition Interlock Systems

Description:

Requires installation of ignition interlock device on the vehicle of a person arrested for driving under the influence that prevents the person from starting or operating a motor vehicle with more than a minimal alcohol concentration. Requires the judiciary to procure a single vendor pursuant to chapter 103D, HRS, to provide ignition interlock installation and maintenance services at no cost to State.

