
A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

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

1 SECTION 1. The legislature finds that Act 171, Session
2 Laws of Hawaii 2008, established a state ignition interlock
3 program. The purpose of the program is to require drivers whose
4 licenses have been administratively revoked for, or who have
5 been convicted of, operating a vehicle under the influence of an
6 intoxicant to install an ignition interlock device on their
7 vehicles. The device will prevent these drivers from starting
8 or operating their vehicles when the driver has more than a
9 minimal alcohol concentration.

10 Act 171 also provided for the probationary supervision of
11 drivers convicted of operating a vehicle under the influence of
12 an intoxicant, stating:

13 This Act also provides for an extended period of
14 probation supervision of the driver while using
15 the ignition interlock device so that the person
16 cannot drink and drive during that period.

17 Attempts to do so will be recorded and reported
18 for appropriate action, including extensions of

1 the period of required ignition interlock device
2 use and other sanctions. Most importantly,
3 probation supervision, using test results and
4 other information generated by the device, can be
5 an important bridge to getting the driver into
6 treatment so that, once the device is removed,
7 the driver possesses the tools to refrain from
8 drinking and driving altogether.

9 Act 171 established an ignition interlock implementation
10 task force to study the issues surrounding implementation of the
11 program and to make recommendations to address them. The
12 ignition interlock implementation task force met numerous times
13 in committees and as a whole, had comprehensive discussions on a
14 multitude of issues relating to the implementation of the
15 ignition interlock program, and made recommendations for
16 statutory amendments necessary to implement the program.

17 The ignition interlock implementation task force also had
18 multiple discussions about probation supervision of convicted
19 offenders. These discussions resulted in a recommendation to
20 the legislature in 2009 that only second and third offenders be
21 supervised using a probationary model. The task force concluded
22 that these repeat offenders pose the greatest risk to themselves



1 and to the community because they have not shown a willingness
2 to change their behavior, despite intervention following their
3 first offense. This recommendation was adopted by the
4 legislature in Act 88, Session Laws of Hawaii 2009.

5 The legislature also finds, and the ignition interlock
6 implementation task force recognizes, that since the time Acts
7 171 and 88 established a probationary model of supervision for
8 convicted second and third offenders, the State's economy has
9 taken a significant downturn. While the ignition interlock
10 implementation task force still prefers the probationary model
11 of supervision for convicted second and third time offenders,
12 the task force also recognizes that the availability of
13 resources necessary for implementation of the probationary model
14 on January 1, 2011, is very uncertain, at best.

15 Accordingly, the ignition interlock implementation task
16 force amended its previous recommendation to the legislature and
17 proposed instead that probation be eliminated for convicted
18 second and third offenders and that an existing practice, known
19 as "proof of compliance," which is less intensive -- and less
20 expensive -- be used for all convicted offenders. The ignition
21 interlock implementation task force recommended that when the
22 State's fiscal outlook improves, the issue of probation for



1 convicted second and third offenders be revisited and
2 implemented.

3 The purpose of this Act is to make amendments to the
4 State's ignition interlock law recommended by the ignition
5 interlock implementation task force pursuant to Act 171, Session
6 Laws of Hawaii 2008.

7 SECTION 2. Chapter 291E, Hawaii Revised Statutes, is
8 amended by adding three new sections to part IV to be
9 appropriately designated and to read as follows:

10 "§291E-A Circumvention of, or tampering with, an ignition
11 interlock device by a person who has been restricted to
12 operating a vehicle equipped with an ignition interlock device;
13 penalties. (a) No person whose driving privileges have been
14 restricted to operating a vehicle equipped with an ignition
15 interlock device shall knowingly:

16 (1) Request, solicit, direct, or authorize another person
17 to blow into an ignition interlock device or start a
18 vehicle equipped with the device for the purposes of
19 providing an operable vehicle to a person who is
20 restricted by law to operating only a vehicle so
21 equipped; or



1 (2) Tamper with an ignition interlock device with the
2 intent to render it inaccurate or inoperable.

3 (b) Any person who violates subsection (a) shall be
4 sentenced without possibility of probation or suspension of
5 sentence as follows:

6 (1) For a first offense, or any offense not preceded
7 within a five-year period by conviction under this
8 section or section 291E-62(a)(3):

9 (A) A term of imprisonment of not less than three
10 consecutive days but not more than thirty days;

11 (B) A fine of not less than \$250 but not more than
12 \$1,000; and

13 (C) Loss of the privilege to operate a vehicle
14 equipped with an ignition interlock device.

15 (2) For an offense that occurs within five years of a
16 prior conviction for an offense under this section or
17 section 291E-62(a)(3):

18 (A) Thirty days imprisonment;

19 (B) A \$1,000 fine; and

20 (C) Loss of the privilege to operate a vehicle
21 equipped with an ignition interlock device.



1 (3) For an offense that occurs within five years of two or
2 more prior convictions for offenses under this section
3 or section 291E-62(a)(3), or any combination thereof:

4 (A) One year imprisonment;

5 (B) A \$2,000 fine; and

6 (C) Loss of the privilege to operate a vehicle
7 equipped with an ignition interlock device.

8 **§291E-B Assisting or abetting the circumvention of, or**
9 **tampering with, an ignition interlock device; penalties.** (a)

10 No person shall knowingly:

11 (1) Blow into an ignition interlock device or start a
12 vehicle equipped with the device for the purposes of
13 providing an operable vehicle to a person who is
14 restricted by law to operating only a vehicle so
15 equipped;

16 (2) Tamper with an ignition interlock device with the
17 intent to render it inaccurate or inoperable to permit
18 another person, who is restricted by law to operating
19 only a vehicle equipped with an ignition interlock
20 device, to operate the vehicle; or

21 (3) Rent, lease, or lend a vehicle to a person who is
22 restricted by law to operating only vehicles equipped



1 with an ignition interlock device, when the rented,
2 leased, or loaned vehicle is not equipped with a
3 functioning certified ignition interlock device.

4 (b) Subsection (a) shall not apply to any act taken for
5 the purpose of safety or mechanical repair of the device;
6 provided that the person who is restricted to operating only
7 vehicles equipped with an interlock device does not operate the
8 vehicle.

9 (c) Any person who violates this section shall be fined:

10 (1) Not more than \$1,000 or imprisoned not more than
11 thirty days, or both, for a first offense; and

12 (2) Not less than \$500 but not more than \$1,000 or
13 imprisoned not more than one year, or both, if the
14 person has two or more prior convictions for this
15 offense in the preceding five year period.

16 **§291E-C Ignition interlock user affordability.** The
17 director of transportation shall contract with the selected
18 interlock vendor to provide partial financial relief on the
19 installation and the periodic calibration charges to offenders
20 who apply for such assistance and who are recipients, at the
21 time of license revocation or suspension, of benefits under the



1 supplemental nutrition assistance program or free services under
2 the Older Americans Act or Developmentally Disabled Act."

3 SECTION 3. Section 286-133, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§286-133 Unlawful to permit unauthorized person to drive.**

6 (a) No person shall authorize or knowingly permit a motor
7 vehicle or moped owned by that person or under that person's
8 control to be driven upon any highway by any person who is not
9 authorized under law to drive the motor vehicle or moped.

10 (b) This section shall not apply to any person who
11 knowingly provides, lends, leases, or rents an operable vehicle,
12 which is equipped with an ignition interlock device, to a driver
13 whose driving privileges are restricted to operating vehicles
14 equipped with an ignition interlock device."

15 SECTION 4. Section 287-20, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 (a) Whenever a driver's license has been suspended or
18 revoked:

19 (1) Pursuant to section 291E-65 or part III of chapter
20 291E, except as provided in section [~~291E-41(f)~~] 291E-
21 41(e);



1 (2) Upon a conviction of any offense pursuant to law[+],
 2 except where the conduct giving rise to the instant
 3 offense is also a violation of part III of chapter
 4 291E and a requirement to furnish and maintain proof
 5 of financial responsibility has already been imposed
 6 pursuant to that part; or

7 (3) In the case of minors, pursuant to part V of chapter
 8 571,

9 the license shall not at any time thereafter be issued to the
 10 person whose license has been suspended or revoked, nor shall
 11 the person thereafter operate a motor vehicle, unless and until
 12 the person has furnished and thereafter maintains proof of
 13 financial responsibility; provided that this section shall not
 14 apply to a license suspended pursuant to section 291E-61(b)(1)
 15 or 291E-64(b)(1), any conviction of a moving violation, any
 16 administrative license suspension pursuant to chapter 291A, or
 17 the first conviction within a five-year period for driving
 18 without a valid motor vehicle insurance policy.

19 This subsection shall not apply to a suspension or
 20 revocation of a provisional license under section 286-102.6(d)."

21 SECTION 5. Section 291E-1, Hawaii Revised Statutes, is
 22 amended as follows:

1 1. By adding a new definition to be appropriately inserted
2 and to read:

3 "Valid license" means a license that:

4 (1) Is issued by an authorized licensing official in any
5 state;

6 (2) Authorizes an individual to operate a motor vehicle on
7 public streets, roads, or highways; and

8 (3) Has not expired or been revoked, suspended, or
9 canceled."

10 2. By amending the definition of "ignition interlock
11 device" to read:

12 "Ignition interlock device" means a breath alcohol
13 ignition interlock device that is certified [~~by the director of~~
14 ~~transportation and approved for use]~~ pursuant to section 291E-6
15 and rules adopted thereunder that, when affixed to the ignition
16 system of a motor vehicle, prevents the vehicle from being
17 started without first testing, and thereafter from being
18 operated without periodically retesting, a deep-lung breath
19 sample of the person required to use the device that indicates
20 the person's alcohol concentration is less than .02."

21 3. By repealing the definition of "highly intoxicated
22 driver":



1 [~~"Highly intoxicated driver" means a person whose~~
2 ~~measurable amount of alcohol is 0.15 or more grams of alcohol~~
3 ~~per one hundred milliliters or cubic centimeters of the person's~~
4 ~~blood, or 0.15 or more grams of alcohol per two hundred ten~~
5 ~~liters of the person's breath."]~~

6 SECTION 6. Section 291E-3, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§291E-3 Evidence of intoxication.** (a) In any criminal
9 prosecution for a violation of section 291E-61 or 291E-61.5 or
10 in any proceeding under part III:

- 11 (1) .08 or more grams of alcohol per one hundred
12 milliliters or cubic centimeters of the person's
13 blood;
- 14 (2) .08 or more grams of alcohol per two hundred ten
15 liters of the person's breath; or
- 16 (3) The presence of one or more drugs in an amount
17 sufficient to impair the person's ability to operate a
18 vehicle in a careful and prudent manner,
19 within three hours after the time of the alleged violation as
20 shown by chemical analysis or other approved analytical
21 techniques of the person's blood, breath, or urine shall be



1 competent evidence that the person was under the influence of an
2 intoxicant at the time of the alleged violation.

3 (b) In any criminal prosecution for a violation of section
4 291E-61 or 291E-61.5, the amount of alcohol found in the
5 defendant's blood or breath within three hours after the time of
6 the alleged violation as shown by chemical analysis or other
7 approved analytical techniques of the defendant's blood or
8 breath shall be competent evidence concerning whether the
9 defendant was under the influence of an intoxicant at the time
10 of the alleged violation and shall give rise to the following
11 presumptions:

12 (1) If there were .05 or less grams of alcohol per one
13 hundred milliliters or cubic centimeters of
14 defendant's blood or .05 or less grams of alcohol per
15 two hundred ten liters of defendant's breath, it shall
16 be presumed that the defendant was not under the
17 influence of alcohol at the time of the alleged
18 violation; and

19 (2) If there were in excess of .05 grams of alcohol per
20 one hundred milliliters or cubic centimeters of
21 defendant's blood or .05 grams of alcohol per two
22 hundred ten liters of defendant's breath, but less



1 than .08 grams of alcohol per one hundred milliliters
 2 or cubic centimeters of defendant's blood or .08 grams
 3 of alcohol per two hundred ten liters of defendant's
 4 breath, that fact may be considered with other
 5 competent evidence in determining whether the
 6 defendant was under the influence of alcohol at the
 7 time of the alleged violation, but shall not of itself
 8 give rise to any presumption.

9 ~~[(c) In any criminal prosecution for a violation of~~
 10 ~~section 291E-61 or in any proceeding under part III-~~

11 ~~(1) .15 or more grams of alcohol per one hundred~~
 12 ~~milliliters or cubic centimeters of the person's~~
 13 ~~blood, or~~

14 ~~(2) .15 or more grams of alcohol per two hundred ten~~
 15 ~~liters of the person's breath,~~

16 ~~within three hours after the time of the alleged violation as~~
 17 ~~shown by chemical analysis or other approved analytical~~
 18 ~~techniques of the person's blood, breath, or urine shall be~~
 19 ~~competent evidence that the person was a highly intoxicated~~
 20 ~~driver at the time of the alleged violation.~~

21 ~~(d)] (c)~~ Nothing in this section shall be construed as
 22 limiting the introduction, in any criminal proceeding for a



1 violation under section 291E-61 or 291E-61.5 or in any
2 proceeding under part III, of relevant evidence of a person's
3 alcohol concentration or drug content obtained more than three
4 hours after an alleged violation; provided that the evidence is
5 offered in compliance with the Hawaii rules of evidence."

6 SECTION 7. Section 291E-6, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§291E-6 Ignition interlock devices; certification.** (a)

9 The director of transportation shall establish and administer a
10 statewide program relating to certification and monitoring of
11 ignition interlock devices installed pursuant to chapter 291E
12 and shall select a single vendor to install and maintain them.

13 (b) The program shall include standards and procedures for
14 the certification of ignition interlock devices installed
15 pursuant to chapter 291E. At a minimum, the standards shall
16 require that the devices:

- 17 (1) Be certified by [~~a nationally recognized certification~~
18 ~~organization~~] an independent laboratory to meet or
19 exceed [~~all standards and specifications provided as~~
20 the guidelines published by the National Highway
21 Traffic Safety Administration[~~— "Nationally~~
22 ~~recognized certification organization" means a testing~~



1 ~~laboratory or analytical chemist not affiliated with a~~
2 ~~manufacturer of ignition interlock devices that is~~
3 ~~qualified to test ignition interlock devices or~~
4 ~~reference samples and is approved by the United States~~
5 ~~Department of Transportation. The nationally~~
6 ~~recognized certification organization must be able to~~
7 ~~administer performance tests of an ignition interlock~~
8 ~~device or a sample provided by the vendor];~~

9 (2) Operate using an alcohol-specific sensor technology;

10 (3) Employ a digital camera by which a photograph of the
11 person using the device can be incorporated into the
12 electronic record generated by each use of the device;

13 (4) Require a rolling retest by which the driver must,
14 within a specified period of time or distance driven
15 after starting the vehicle, be retested and found to
16 have an alcohol concentration of less than .02, with a
17 margin of error of .01; and

18 (5) Generate a record of vehicle usage, including dates[7]
19 and times[7, ~~and distances~~] driven.

20 (c) The program shall include standards and procedures for
21 the certification of the vendor selected to install and maintain



1 ignition interlock devices pursuant to chapter 291E. At a
2 minimum, the standards shall require that the vendor:

- 3 (1) Install only an ignition interlock device that is
4 certified pursuant to this section;
- 5 (2) Offer or contract for ignition interlock device
6 installation and maintenance statewide;
- 7 (3) Train drivers who are required to install an ignition
8 interlock device, pursuant to chapter 291E [~~or 804~~],
9 in how to use the device;
- 10 (4) Schedule the driver for all necessary readings and
11 maintenance of the device; and
- 12 (5) Provide periodic reports regarding the use of each
13 ignition interlock device installed pursuant to
14 chapter 291E, including incidents of test failure,
15 attempts to circumvent the device, and dates, times,
16 and distances the vehicle was driven.

17 (d) The vendor selected for installation and maintenance
18 of ignition interlock devices pursuant to chapter 291E shall be
19 [~~certified~~] audited annually by the director of transportation
20 pursuant to this section and the rules adopted thereunder. [~~The~~
21 ~~vendor shall pay a certification fee to the director of~~
22 ~~transportation who shall deposit the fee into the ignition~~



1 ~~interlock special fund established pursuant to section 291E-5.]~~

2 The director may require the vendor to pay for all or part of
3 the costs incurred in conducting the audit.

4 (e) The director of transportation shall adopt rules
5 pursuant to chapter 91 necessary for the purposes of this
6 section."

7 SECTION 8. Section 291E-7, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) In addition to any other civil penalties ordered by
10 the court, a person who violates any offense under this part may
11 be ordered to pay a trauma system surcharge, provided that:

12 (1) The maximum of which may be \$10 if the violator is not
13 already required to pay a trauma system surcharge
14 pursuant to the violation of the offense;

15 (2) The maximum of which may be \$25 if the violation is an
16 offense under ~~[+]section[+] 291E-61(a)(1), 291E-~~
17 ~~61(a)(3), or 291E-61(a)(4);~~

18 (3) The maximum of which may be \$50 if the violation is an
19 offense under ~~[+]section[+] 291E-61(a)(2) or 291E-61.5~~
20 ~~or [the offense under [section] 291E-61(a)(3) or 291E-~~
21 ~~61(a)(4) was committed by a highly intoxicated driver~~
22 ~~as defined by section 291E-1, or] if the offense under~~



1 [+]section[+] 291E-61(a)(3) or 291E-61(a)(4) is a
 2 second or subsequent offense that occurred within five
 3 years of the first offense."

4 SECTION 9. Section 291E-31, Hawaii Revised Statutes, is
 5 amended to read as follows:

6 "**§291E-31 Notice of administrative revocation; effect.** As
 7 used in this part, the notice of administrative revocation:

8 (1) Establishes that the respondent's license and
 9 privilege to operate a vehicle in the [State] state or
 10 on or in the waters of the State shall be terminated:

11 (A) Thirty days after the date the notice of
 12 administrative revocation is issued in the case
 13 of an alcohol related offense;

14 (B) Forty-four days after the date the notice of
 15 administrative revocation is issued in the case
 16 of a drug related offense; or

17 (C) Such later date as is established by the director
 18 under section 291E-38,
 19 if the director administratively revokes the
 20 respondent's license and privilege;

21 (2) Establishes that the registration of any motor vehicle
 22 registered to a respondent who is a repeat intoxicated



1 driver [~~or a highly intoxicated driver~~] shall be
2 terminated thirty days after the date of an arrest
3 pursuant to section 291E-33(c);

4 (3) Establishes the date on which administrative
5 revocation proceedings against the respondent were
6 initiated; [~~and~~]

7 (4) Serves as a temporary permit, if applicable, to
8 operate a vehicle as provided in section 291E-33[~~+~~];
9 and

10 (5) Notifies the respondent that the respondent shall keep
11 an ignition interlock device installed and operating
12 in any vehicle the respondent operates during the
13 revocation period if the respondent had a valid
14 license at the time of the arrest."

15 SECTION 10. Section 291E-33, Hawaii Revised Statutes, is
16 amended by amending subsection (c) to read as follows:

17 "(c) Whenever a respondent under this section is a repeat
18 intoxicated driver [~~or highly intoxicated driver~~], the arresting
19 law enforcement officer shall take possession of the motor
20 vehicle registration and, if the motor vehicle being driven by
21 the respondent is registered to the respondent, remove the
22 number plates and issue a temporary motor vehicle registration



1 and temporary number plates for the motor vehicle. No temporary
 2 motor vehicle registration or temporary number plates shall be
 3 issued if the respondent's registration has expired or been
 4 revoked. The applicable police department, upon determining
 5 that the respondent is a repeat intoxicated driver [~~or highly~~
 6 ~~intoxicated driver~~], shall notify the appropriate county
 7 director of finance to enter a stopper on the motor vehicle
 8 registration files to prevent the respondent from conducting any
 9 motor vehicle transactions, except as permitted under this
 10 part."

11 SECTION 11. Section 291E-34, Hawaii Revised Statutes, is
 12 amended as follows:

13 1. By amending subsection (e) to read:

14 "(e) The notice shall state that, if the respondent's
 15 license and privilege to operate a vehicle, and motor vehicle
 16 registration if applicable, are administratively revoked after
 17 the review, a decision shall be mailed to the respondent, or to
 18 the parent or guardian of the respondent if the respondent is
 19 under the age of eighteen, that shall contain, at a minimum, the
 20 following information:



- 1 (1) The reasons why the respondent's license and privilege
2 to operate a vehicle, and motor vehicle registration
3 if applicable, were administratively revoked;
- 4 (2) That the respondent may request the director, within
5 six days of the date the decision is mailed, to
6 schedule an administrative hearing to review the
7 administrative revocation;
- 8 (3) That, if the respondent's request for an
9 administrative hearing is received by the director
10 within six days of the date the decision was mailed,
11 the hearing shall be scheduled to commence:
 - 12 (A) No later than twenty-five days after the date of
13 the issuance of the notice of administrative
14 revocation in the case of an alcohol related
15 offense; and
 - 16 (B) No later than thirty-nine days after the date of
17 the issuance of the notice of administrative
18 revocation in the case of a drug related offense;
- 19 (4) The procedure to request an administrative hearing;
- 20 (5) That failure to request an administrative hearing
21 within the time provided shall cause the
22 administrative revocation to take effect for the



- 1 period and under the conditions established by the
2 director in the decision;
- 3 (6) That the respondent may regain the right to a hearing
4 by requesting the director, within sixty days after
5 the issuance of the notice of administrative
6 revocation, to schedule a hearing;
- 7 (7) That the director shall schedule the hearing to
8 commence no later than thirty days after a request
9 under paragraph (6) is received, but that, except as
10 provided in section 291E-38(k), the temporary permit,
11 and temporary motor vehicle registration and temporary
12 number plates if applicable, shall not be extended if
13 the respondent fails to request an administrative
14 hearing within the initial six-day period provided for
15 that purpose;
- 16 (8) That failure to attend the hearing shall cause the
17 administrative revocation to take effect for the
18 period and under the conditions indicated;
- 19 (9) The duration of the administrative revocation and
20 other conditions that may be imposed, including[:]
21 referral to the driver's education program for an



1 assessment of the respondent's substance abuse or
2 dependence and the need for treatment; [~~and~~]

3 (10) That, pursuant to section 291E-48, the director may
4 grant a special motor vehicle registration to a
5 qualified household member or to a co-owner of any
6 motor vehicle owned by the respondent, upon a
7 determination that the person is completely dependent
8 on the motor vehicle for the necessities of life;
9 provided that the special motor vehicle registration
10 shall not be valid for use by the respondent[-]; and

11 (11) That the respondent shall obtain an ignition interlock
12 permit to operate a vehicle during the revocation
13 period if the respondent had a valid license at the
14 time of the arrest."

15 2. By amending subsection (h) to read:

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

21 (1) The effective date of the administrative revocation;

22 (2) The duration of the administrative revocation;



1 (3) If applicable, the date by which any outstanding motor
2 vehicle number plates issued to the respondent must be
3 surrendered to the director;

4 (4) If applicable, that failure to surrender any motor
5 vehicle number plates as required is a misdemeanor;

6 [~~3~~] (5) Other conditions that may be imposed by law,
7 including the use of an ignition interlock device; and

8 [~~4~~] (6) The right to obtain judicial review."

9 SECTION 12. Section 291E-38, Hawaii Revised Statutes, is
10 amended by amending subsection (1) to read as follows:

11 "(1) The director may grant a special motor vehicle
12 registration, pursuant to section 291E-48, to a qualified
13 household member or a co-owner of any motor vehicle upon
14 determination that [~~the~~]:

15 (1) The person is completely dependent on the motor
16 vehicle for the necessities of life[-]; and

17 (2) At the time of the application for a special motor
18 vehicle registration, the respondent does not have a
19 valid ignition interlock permit.

20 The special motor vehicle registration shall not be valid for
21 use by the respondent."



1 SECTION 13. Section 291E-41, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§291E-41 Effective date and period of administrative
4 revocation; criteria. (a) Unless an administrative revocation
5 is reversed or the temporary permit [~~is~~], and temporary motor
6 vehicle registration and temporary number plates, if applicable,
7 are extended by the director, administrative revocation shall
8 become effective on the day specified in the notice of
9 administrative revocation. Except as provided in section [~~291E-~~
10 ~~44,~~] 291E-44.5, no license and privilege to operate a vehicle
11 shall be restored under any circumstances during the
12 administrative revocation period. Upon completion of the
13 administrative revocation period, the respondent may reapply and
14 be reissued a license pursuant to section 291E-45.

15 (b) Except as provided in paragraph (5) and in section
16 291E-44.5, the respondent shall keep an ignition interlock
17 device installed and operating [~~on~~] in any vehicle the
18 respondent operates during the revocation period. [~~Except as~~
19 ~~provided in section 291E-5, installation~~] Installation and
20 maintenance of the ignition interlock device shall be at the
21 respondent's own expense. The periods of administrative
22 revocation with respect to a license and privilege to operate a



1 vehicle, and motor vehicle registration if applicable, that
2 shall be imposed under this part are as follows:

3 (1) A one year revocation of license and privilege to
4 operate a vehicle, if the respondent's record shows no
5 prior alcohol enforcement contact or drug enforcement
6 contact during the five years preceding the date the
7 notice of administrative revocation was issued;

8 (2) An eighteen month revocation of license and privilege
9 to operate a vehicle[~~r~~] and of the registration of any
10 motor vehicle registered to the respondent, if the
11 respondent's record shows one prior alcohol
12 enforcement contact or drug enforcement contact during
13 the five years preceding the date the notice of
14 administrative revocation was issued;

15 (3) A two-year revocation of license and privilege to
16 operate a vehicle[~~r~~] and of the registration of any
17 motor vehicle registered to the respondent, if the
18 respondent's record shows two prior alcohol
19 enforcement contacts or drug enforcement contacts
20 during the five years preceding the date the notice of
21 administrative revocation was issued;



- 1 (4) A minimum of five years up to a maximum of ten years
2 revocation of license and privilege to operate a
3 vehicle~~[,]~~ and of the registration of any motor
4 vehicle registered to the respondent, if the
5 respondent's record shows three or more prior alcohol
6 enforcement contacts or drug enforcement contacts
7 during the [~~five~~] ten years preceding the date the
8 notice of administrative revocation was issued; or
- 9 (5) For respondents under the age of eighteen years who
10 were arrested for a violation of section 291E-61 or
11 291E-61.5, revocation of license and privilege to
12 operate a vehicle for the appropriate revocation
13 period provided in paragraphs (1) to (4) or in
14 subsection [~~(e)~~] (d); provided that the respondent
15 shall be prohibited from driving during the period
16 preceding the respondent's eighteenth birthday and
17 shall thereafter be subject to the ignition interlock
18 requirement of this subsection for the balance of the
19 revocation period;
- 20 (6) For respondents, other than those excepted pursuant to
21 section 291E-44.5(b), who do not install an ignition
22 interlock device in [~~the respondent's vehicle~~] any



1 vehicle the respondent operates during the revocation
2 period, revocation of license and privilege to operate
3 a vehicle for the period of revocation provided in
4 paragraphs (1) to (5) or in subsection [~~e~~] (d);
5 provided that:

6 (A) The respondent shall be absolutely prohibited
7 from driving during the revocation period and
8 subject to the penalties provided by section
9 291E-62 if the respondent drives during the
10 revocation period; and

11 (B) The director shall not issue an ignition
12 interlock permit to the respondent pursuant to
13 section 291E-44.5;

14 provided that when more than one administrative revocation,
15 suspension, or conviction arises out of the same arrest, it
16 shall be counted as only one prior alcohol enforcement contact
17 or drug enforcement contact, whichever revocation, suspension,
18 or conviction occurs later.

19 (c) Whenever a motor vehicle registration is revoked under
20 this part, the director shall cause the revocation to be entered
21 electronically into the motor vehicle registration file of the
22 respondent.



1 [~~(e)~~] (d) If a respondent has refused to be tested after
2 being informed:

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

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

9 the revocation imposed under subsection (b) (1), (2), (3), or (4)
10 shall be for a period of two years, three years, four years, and
11 ten years, respectively.

12 [~~(d)~~] (e) Whenever a license and privilege to operate a
13 vehicle is administratively revoked under this part, the
14 respondent shall be referred to the driver's education program
15 for an assessment, by a certified substance abuse counselor, of
16 the respondent's substance abuse or dependence and the need for
17 treatment. The counselor shall submit a report with
18 recommendations to the director. If the counselor's assessment
19 establishes that the extent of the respondent's substance abuse
20 or dependence warrants treatment, the director shall so order.
21 All costs for assessment and treatment shall be paid by the
22 respondent.



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

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

7 SECTION 14. Section 291E-44.5, Hawaii Revised Statutes, is
8 amended by amending subsections (a) and (b) to read as follows:

9 "(a)(1) Except as provided in paragraph (2), upon proof that
10 the respondent has installed an ignition interlock
11 device in the respondent's vehicle, the director shall
12 issue an ignition interlock permit that will allow the
13 respondent to drive a vehicle equipped with an
14 ignition interlock device during the revocation
15 period; or

16 (2) Notwithstanding any other law to the contrary, the
17 director shall not issue an ignition interlock permit
18 to:

19 (A) A respondent whose license is expired, suspended,
20 or revoked as a result of action other than the
21 instant revocation; [~~e~~]



1 (B) A respondent who does not hold a valid license at
2 the time of arrest for the violation of section
3 291E-61; or

4 [~~(B)~~] (C) A respondent who holds either a category 4
5 license under section 286-102(b) or a commercial
6 driver's license under section 286-239(b) unless
7 the ignition interlock permit is restricted to a
8 category 1, 2, or 3 license under section 286-
9 102(b).

10 (b) (1) [~~The~~] Except as provided in subsection (a) (2), the
11 director may issue a separate permit authorizing a
12 respondent to operate a vehicle owned by the
13 respondent's employer during the period of revocation
14 without installation of an ignition interlock device
15 if the respondent is gainfully employed in a position
16 that requires driving and the respondent will be
17 discharged if prohibited from driving a vehicle not
18 equipped with an ignition interlock device.

19 (2) A request made pursuant to paragraph (1) shall be
20 accompanied by:

21 (A) A sworn statement from the respondent containing
22 facts establishing that the respondent currently



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

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

13 SECTION 15. Section 291E-45, Hawaii Revised Statutes, is
 14 amended by amending subsection (b) to read as follows:

15 "(b) To be eligible for reregistration of a motor vehicle,
 16 if applicable, after a period of administrative revocation has
 17 expired, the person shall:

18 (1) Submit proof to the director of compliance with all
 19 conditions imposed by the director;

20 (2) Obtain a certified statement from the director
 21 indicating eligibility for registration of a motor
 22 vehicle;



1 (3) Present the certified statement to the [~~appropriate~~
2 ~~county~~] director of [~~finance,~~] the appropriate county
3 agency; and

4 (4) Successfully complete each requirement, as provided in
5 chapter 286, for obtaining a new certificate of
6 registration for a motor vehicle in this State,
7 including payment of all applicable fees."

8 SECTION 16. Section 291E-48, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) Anytime after the effective date of revocation or
11 after the administrative hearing decision is mailed pursuant to
12 section 291E-38(j), a qualified household member or co-owner of
13 a motor vehicle with a respondent who has had a motor vehicle
14 registration revoked under this part may submit a sworn
15 statement to the director requesting a special motor vehicle
16 registration. The director may grant the request upon
17 determining that the following conditions have been met:

- 18 (1) The applicant is a household member of the
19 respondent's or a co-owner of the vehicle;
- 20 (2) The applicant has a license that has not expired or
21 been suspended or revoked;



- 1 (3) The applicant is completely dependent on the motor
- 2 vehicle for the necessities of life; [~~and~~]
- 3 (4) The director finds that the applicant will take
- 4 reasonable precautions to ensure that the respondent
- 5 will not drive the vehicle[-]; and
- 6 (5) The respondent does not have a valid ignition
- 7 interlock permit.

8 A person to whom a special motor vehicle registration has been
 9 granted shall apply to the appropriate county director of
 10 finance for special series number plates, as provided in section
 11 249-9.4."

12 SECTION 17. Section 291E-61, Hawaii Revised Statutes, is
 13 amended to read as follows:

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

- 18 (1) 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 guard
- 21 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 without
10 possibility of probation or suspension of sentence as follows:

11 (1) For the first offense, or any offense not preceded
12 within a five-year period by a conviction for an
13 offense under this section or section 291E-4(a):

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

18 (B) One-year revocation of license and privilege to
19 operate a vehicle during the revocation period
20 and installation during the revocation period of
21 an ignition interlock device on any vehicle
22 operated by the person;



- 1 (C) Any one or more of the following:
 - 2 (i) Seventy-two hours of community service work;
 - 3 (ii) Not less than forty-eight hours and not more
 - 4 than five days of imprisonment; or
 - 5 (iii) A fine of not less than \$150 but not more
 - 6 than \$1,000;
- 7 (D) A surcharge of \$25 to be deposited into the
- 8 neurotrauma special fund; and
- 9 (E) May be charged a surcharge of up to \$25 to be
- 10 deposited into the trauma system special fund if
- 11 the court so orders;
- 12 (2) For an offense that occurs within five years of a
- 13 prior conviction for an offense under this section or
- 14 section 291E-4(a) [~~and notwithstanding section 706-~~
- 15 ~~623, by probation for not less than eighteen months~~
- 16 ~~nor more than two years on the following conditions]~~:
- 17 (A) Revocation for not less than eighteen months nor
- 18 more than two years of license and privilege to
- 19 operate a vehicle during the [~~probation]~~
- 20 revocation period and installation during the
- 21 [~~probation]~~ revocation period of an ignition



1 interlock device on any vehicle operated by the
2 person;

3 (B) Either one of the following:

4 (i) Not less than two hundred forty hours of
5 community service work; or

6 (ii) Not ~~[more]~~ less than five days but not more
7 than thirty days of imprisonment, of which
8 at least forty-eight hours shall be served
9 consecutively;

10 (C) A fine of not less than \$500 but not more than
11 \$1,500;

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

14 (E) ~~[May be charged a]~~ A surcharge of up to \$50 if
15 the court so orders, to be deposited into the
16 trauma system special fund ~~[if the court so~~
17 ~~orders]~~;

18 (3) For an offense that occurs within five years of two
19 prior convictions for offenses under this section or
20 section 291E-4(a) ~~[, and notwithstanding section 706-~~
21 ~~623, by probation for two years on the following~~
22 ~~conditions]:~~



- 1 (A) A fine of not less than \$500 but not more than
- 2 \$2,500;
- 3 (B) Revocation for two years of license and privilege
- 4 to operate a vehicle during the [~~probation~~]
- 5 revocation period and installation during the
- 6 [~~probation~~] revocation period of an ignition
- 7 interlock device on any vehicle operated by the
- 8 person;
- 9 (C) [~~Up to five~~] Not less than ten days but not more
- 10 than thirty days imprisonment, of which at least
- 11 forty-eight hours shall be served consecutively;
- 12 (D) A surcharge of \$25 to be deposited into the
- 13 neurotrauma special fund; and
- 14 (E) [~~May be charged a~~] A surcharge of up to \$50 if
- 15 the court so orders, to be deposited into the
- 16 trauma system special fund [~~if the court so~~
- 17 ~~orders~~];
- 18 (4) In addition to a sentence imposed under paragraphs (1)
- 19 through (3), any person eighteen years of age or older
- 20 who is convicted under this section and who operated a
- 21 vehicle with a passenger, in or on the vehicle, who
- 22 was younger than fifteen years of age, shall be

1 sentenced to an additional mandatory fine of \$500 and
2 an additional mandatory term of imprisonment of forty-
3 eight hours; provided that the total term of
4 imprisonment for a person convicted under this
5 paragraph shall not exceed the maximum term of
6 imprisonment provided in paragraph (1), (2), or (3),
7 as applicable. Notwithstanding ~~[paragraph]~~ paragraphs
8 (1) and (2), the ~~[probation]~~ revocation period for a
9 person sentenced under this paragraph shall be not
10 less than two years; and

11 (5) If the person demonstrates to the court that the
12 person:

13 (A) Does not own or have the use of a vehicle in
14 which the person can install an ignition
15 interlock device during the ~~[probation]~~
16 revocation period; or

17 (B) Is otherwise unable to drive during the
18 ~~[probation]~~ revocation period,

19 the person shall be absolutely prohibited from driving during
20 the period of ~~[probation]~~ applicable revocation provided in
21 paragraphs (1) to (4); provided that the court shall not issue
22 an ignition interlock permit pursuant to subsection (i) and the



1 person shall be subject to the penalties provided by section
2 291E-62 if the person drives during the [~~probation~~] applicable
3 revocation period.

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

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

9 (2) A defendant who does not hold a valid license at the
10 time of the instant offense; or

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

16 (d) [~~The~~] Except as provided in subsection (c), the court
17 may issue a separate permit authorizing a defendant to operate a
18 vehicle owned by the defendant's employer during the period of
19 revocation without installation of an ignition interlock device
20 if the defendant is gainfully employed in a position that
21 requires driving and the defendant will be discharged if



1 prohibited from driving a vehicle not equipped with an ignition
2 interlock device.

3 (e) A request made pursuant to subsection (d) shall be
4 accompanied by:

5 (1) A sworn statement from the defendant containing facts
6 establishing that the defendant currently is employed
7 in a position that requires driving and that the
8 defendant will be discharged if prohibited from
9 driving a vehicle not equipped with an ignition
10 interlock device; and

11 (2) A sworn statement from the defendant's employer
12 establishing that the employer will, in fact,
13 discharge the defendant if the defendant is prohibited
14 from driving a vehicle not equipped with an ignition
15 interlock device and identifying the specific vehicle
16 and hours of the day, not to exceed twelve hours per
17 day, the defendant will drive for purposes of
18 employment.

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



- 1 (1) Only during specified hours of employment, not to
- 2 exceed twelve hours per day, and only for activities
- 3 solely within the scope of the employment;
- 4 (2) Only the vehicle specified; and
- 5 (3) Only if the permit is kept in the defendant's
- 6 possession while operating the employer's vehicle.
- 7 (g) Notwithstanding any other law to the contrary, any:
- 8 (1) Conviction under this section, section 291E-4(a), or
- 9 section 291E-61.5;
- 10 (2) Conviction in any other state or federal jurisdiction
- 11 for an offense that is comparable to operating or
- 12 being in physical control of a vehicle while having
- 13 either an unlawful alcohol concentration or an
- 14 unlawful drug content in the blood or urine or while
- 15 under the influence of an intoxicant or habitually
- 16 operating a vehicle under the influence of an
- 17 intoxicant; or
- 18 (3) Adjudication of a minor for a law violation that, if
- 19 committed by an adult, would constitute a violation of
- 20 this section or an offense under section 291E-4(a), or
- 21 section 291E-61.5;



1 shall be considered a prior conviction for the purposes of
2 imposing sentence under this section. Any judgment on a verdict
3 or a finding of guilty, a plea of guilty or nolo contendere, or
4 an adjudication, in the case of a minor, that at the time of the
5 offense has not been expunged by pardon, reversed, or set aside
6 shall be deemed a prior conviction under this section. No
7 license and privilege [~~suspension or~~] revocation shall be
8 imposed pursuant to this section if the person's license and
9 privilege to operate a vehicle has previously been
10 administratively revoked pursuant to part III for the same act;
11 provided that, if the administrative [~~suspension or~~] revocation
12 is subsequently reversed, the person's license and privilege to
13 operate a vehicle shall be [~~suspended or~~] revoked as provided in
14 this section. There shall be no requirement for the
15 installation of an ignition interlock device pursuant to this
16 section if the requirement has previously been imposed pursuant
17 to part III for the same act; provided that, if the requirement
18 is subsequently reversed, a requirement for the installation of
19 an ignition interlock device shall be imposed as provided in
20 this section.

21 (h) 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 (i) Upon proof that the defendant has [~~installed~~]:
11 (1) Installed an ignition interlock device in [~~the~~
12 ~~defendant's~~] any vehicle the defendant operates
13 pursuant to subsection (b) [~~7~~]; and
14 (2) Motor vehicle insurance or self-insurance that
15 complies with the requirements under either section
16 431:10C-104 or section 431:10C-105;

17 the court shall issue an ignition interlock permit that will
18 allow the defendant to drive a vehicle equipped with an ignition
19 interlock device during the revocation period.

20 (j) Notwithstanding any other law to the contrary,
21 whenever a court revokes a person's driver's license pursuant to
22 this section, the examiner of drivers shall not grant to the



1 person a new driver's license until the expiration of the period
2 of revocation determined by the court. After the period of
3 revocation is completed, the person may apply for and the
4 examiner of drivers may grant to the person a new driver's
5 license.

6 (k) Any person sentenced under this section may be ordered
7 to reimburse the county for the cost of any blood or urine tests
8 conducted pursuant to section 291E-11. The court shall order
9 the person to make restitution in a lump sum, or in a series of
10 prorated installments, to the police department or other agency
11 incurring the expense of the blood or urine test. Except as
12 provided in section 291E-5, installation and maintenance of the
13 ignition interlock device required by subsection (b) shall be at
14 the defendant's own expense.

15 ~~[(1) The requirement to provide proof of financial~~
16 ~~responsibility pursuant to section 287-20 shall not be based~~
17 ~~upon a sentence imposed under subsection (b) (1).~~

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

20 SECTION 18. Section 291E-62, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§291E-62 Operating a vehicle after license and privilege
 2 have been suspended or revoked for operating a vehicle under the
 3 influence of an intoxicant; penalties. (a) No person whose
 4 license and privilege to operate a vehicle have been revoked,
 5 suspended, or otherwise restricted pursuant to this section or
 6 to part III or section 291E-61 or 291E-61.5, or to part VII or
 7 part XIV of chapter 286 or section 200-81, 291-4, 291-4.4, 291-
 8 4.5, or 291-7 as those provisions were in effect on December 31,
 9 2001, shall operate or assume actual physical control of any
 10 vehicle:

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

19 (b) Any person convicted of violating this section shall
 20 be sentenced as follows[+] without possibility of probation or
 21 suspension of sentence:



1 (1) For a first offense, or any offense not preceded
2 within a five-year period by conviction for an offense
3 under this section, or section 291E-A, or under
4 section 291-4.5 as that section was in effect on
5 December 31, 2001:

6 (A) A term of imprisonment of not less than three
7 consecutive days but not more than thirty days;

8 (B) A fine of not less than \$250 but not more than
9 \$1,000; [~~and~~]

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

12 (D) Loss of the privilege to operate a vehicle
13 equipped with an ignition interlock device, if
14 applicable;

15 (2) For an offense that occurs within five years of a
16 prior conviction for an offense under this section, or
17 section 291E-A, or under section 291-4.5 as that
18 section was in effect on December 31, 2001:

19 (A) Thirty days imprisonment;

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

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



1 (D) Loss of the privilege to operate a vehicle
2 equipped with an ignition interlock device, if
3 applicable;

4 and

5 (3) For an offense that occurs within five years of two or
6 more prior convictions for offenses under this
7 section, section 291E-A, or under section 291-4.5 as
8 that section was in effect on December 31, 2001[+], or
9 any combination thereof:

10 (A) One year imprisonment;

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

12 (C) Permanent revocation of the person's license and
13 privilege to operate a vehicle[~~-~~]; and

14 (D) Loss of the privilege to operate a vehicle
15 equipped with an ignition interlock device, if
16 applicable.

17 ~~[The period of revocation shall commence upon the release of the~~
18 ~~person from the period of imprisonment imposed pursuant to this~~
19 ~~section.]~~

20 (c) The applicable period of revocation in subsection (b)
21 shall commence upon the release of the person from the period of
22 imprisonment imposed pursuant to this section."



1 SECTION 19. Section 706-623, Hawaii Revised Statutes, is
2 amended by amending subsection (1) to read as follows:

3 "(1) When the court has sentenced a defendant to be placed
4 on probation, the period of probation shall be as follows,
5 unless the court enters the reason therefor on the record and
6 sentences the defendant to a shorter period of probation:

7 (a) Ten years upon conviction of a class A felony;

8 (b) Five years upon conviction of a class B or class C
9 felony;

10 (c) One year upon conviction of a misdemeanor; except that
11 upon a conviction under section 586-4, 586-11, or 709-
12 906, the court may sentence the defendant to a period
13 of probation not exceeding two years; or

14 (d) [~~Except as provided in paragraph (c), six~~] Six months
15 upon conviction of a petty misdemeanor; provided that
16 up to one year may be imposed upon a finding of good
17 cause[~~+~~ ~~or~~

18 ~~(e) Eighteen months to two years upon conviction under~~
19 ~~section 291E-61(b)(2), and two years upon a conviction~~
20 ~~under section 291E-61(b)(3)].~~

21 The court, on application of a probation officer, on application
22 of the defendant, or on its own motion, may discharge the



1 defendant at any time. Prior to granting early discharge, the
2 court shall afford the prosecuting attorney an opportunity to be
3 heard. The terms of probation provided in this part, other than
4 in this section, shall not apply to sentences of probation
5 imposed under section 706-606.3."

6 SECTION 20. Section 853-4, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§853-4 Chapter not applicable; when.** This chapter shall
9 not apply when:

10 (1) The offense charged involves the intentional, knowing,
11 reckless, or negligent killing of another person;

12 (2) The offense charged is:

13 (A) A felony that involves the intentional, knowing,
14 or reckless bodily injury, substantial bodily
15 injury, or serious bodily injury of another
16 person; or

17 (B) A misdemeanor or petty misdemeanor that carries a
18 mandatory minimum sentence and that involves the
19 intentional, knowing, or reckless bodily injury,
20 substantial bodily injury, or serious bodily
21 injury of another person;



- 1 (3) The offense charged involves a conspiracy or
- 2 solicitation to intentionally, knowingly, or
- 3 recklessly kill another person or to cause serious
- 4 bodily injury to another person;
- 5 (4) The offense charged is a class A felony;
- 6 (5) The offense charged is nonprobationable;
- 7 (6) The defendant has been convicted of any offense
- 8 defined as a felony by the Hawaii Penal Code or has
- 9 been convicted for any conduct that if perpetrated in
- 10 this State would be punishable as a felony;
- 11 (7) The defendant is found to be a law violator or
- 12 delinquent child for the commission of any offense
- 13 defined as a felony by the Hawaii Penal Code or for
- 14 any conduct that if perpetrated in this State would
- 15 constitute a felony;
- 16 (8) The defendant has a prior conviction for a felony
- 17 committed in any state, federal, or foreign
- 18 jurisdiction;
- 19 (9) A firearm was used in the commission of the offense
- 20 charged;
- 21 (10) The defendant is charged with the distribution of a
- 22 dangerous, harmful, or detrimental drug to a minor;



- 1 (11) The defendant has been charged with a felony offense
2 and has been previously granted deferred acceptance of
3 guilty plea status for a prior offense, regardless of
4 whether the period of deferral has already expired;
- 5 (12) The defendant has been charged with a misdemeanor
6 offense and has been previously granted deferred
7 acceptance of guilty plea status for a prior felony,
8 misdemeanor, or petty misdemeanor for which the period
9 of deferral has not yet expired;
- 10 (13) The offense charged is:
- 11 (A) Escape in the first degree;
12 (B) Escape in the second degree;
13 (C) Promoting prison contraband in the first degree;
14 (D) Promoting prison contraband in the second degree;
15 (E) Bail jumping in the first degree;
16 (F) Bail jumping in the second degree;
17 (G) Bribery;
18 (H) Bribery of a witness;
19 (I) Intimidating a witness;
20 (J) Bribery of or by a juror;
21 (K) Intimidating a juror;
22 (L) Jury tampering;



- 1 (M) Promoting prostitution in the first degree;
- 2 (N) Promoting prostitution in the second degree;
- 3 (O) Promoting prostitution in the third degree;
- 4 (P) Abuse of family or household members;
- 5 (Q) Sexual assault in the second degree;
- 6 (R) Sexual assault in the third degree;
- 7 (S) A violation of an order issued pursuant to
- 8 chapter 586;
- 9 (T) Promoting child abuse in the second degree;
- 10 (U) Promoting child abuse in the third degree;
- 11 (V) Electronic enticement of a child in the first
- 12 degree; or
- 13 (W) Electronic enticement of a child in the second
- 14 degree; [~~or~~
- 15 ~~(X) An offense under part IV, chapter 291E,]~~
- 16 (14) The defendant has been charged with:
- 17 (A) Knowingly or intentionally falsifying any report
- 18 required under chapter 11, subpart B of part XII,
- 19 with the intent to circumvent the law or deceive
- 20 the campaign spending commission; or
- 21 (B) Violating section 11-201 or 11-202; or



1 (15) The defendant holds a commercial driver's license and
2 has been charged with violating a traffic control law,
3 other than a parking law, in connection with the
4 operation of any type of motor vehicle.

5 The court may adopt by rule other criteria in this area."

6 SECTION 21. In codifying the new sections added by section
7 2 of this Act, the revisor of statutes shall substitute
8 appropriate section numbers for the letters used in designating
9 the new sections in this Act.

10 SECTION 22. This Act does not affect rights and duties
11 that matured, penalties that were incurred, and proceedings that
12 were begun before its effective date.

13 SECTION 23. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 24. This Act shall take effect on July 1, 2020.



Report Title:

Highway Safety; Ignition Interlock Program

Description:

Enacts the recommendations of the Ignition Interlock Implementation Task Force made pursuant to Act 171, Session Laws of Hawaii 2008. Effective July 1, 2020. (HB2752 HD3)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

