

# SENATE FLOOR AMENDMENT

FLOOR AMENDMENT NO. 5 Date MAR 02 2010

TO: S.B. No. 2614

SECTION 1. S.B. No. 2614 is amended by amending section 1 to read as follows:

"SECTION 1. Section 291C-105, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

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

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

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

(B) Thirty-day prompt suspension of license and privilege to operate a vehicle during the suspension period, or the court may impose, in lieu of the thirty-day prompt suspension of license, a minimum fifteen-day prompt suspension of license with absolute prohibition from operating a vehicle and, for the remainder of the thirty-day period, a restriction on the license that allows the person to drive for limited work-related purposes;

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

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

(E) May be charged a surcharge of up to \$100 to be deposited into the trauma system special fund if the court so orders;

(F) An assessment for driver education pursuant to section 286G-3; [and]

(G) Either one of the following:

(i) Thirty-six hours of community service work;  
or

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

(H) A vehicle owned by the defendant, used in the commission of a violation of this paragraph, shall be ordered by the court to be subject to forfeiture under chapter 712A if the defendant



operated or assumed actual physical control of the vehicle while under the influence of an intoxicant with:

- (i) With .16 or more grams of alcohol per two hundred ten liters of breath; or
- (ii) With .16 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood;

(2) For an offense that occurs within five years of a prior conviction for an offense under this section[~~by~~]:

- (A) A fine of not less than \$750 and not more than \$1,000;
- (B) Prompt suspension of license and privilege to operate a vehicle for a period of thirty days with an absolute prohibition from operating a vehicle during the suspension period;
- (C) Attendance in a course of instruction in driver retraining;
- (D) A surcharge of \$25 to be deposited into the neurotrauma special fund;
- (E) May be charged a surcharge of up to \$100 to be deposited into the trauma system special fund if the court so orders;
- (F) An assessment for driver education pursuant to section 286G-3; and
- (G) Either one of the following:
  - (i) Not less than one hundred twenty hours of community service work; or
  - (ii) Not less than five days but not more than fourteen days of imprisonment of which at least forty-eight hours shall be served consecutively; [~~and~~]

(H) A vehicle owned by the defendant, used in the commission of a violation of this paragraph, shall be ordered by the court to be subject to forfeiture under chapter 712A if the defendant operated or assumed actual physical control of the vehicle while under the influence of an intoxicant with:

- (i) With .16 or more grams of alcohol per two hundred ten liters of breath; or
- (ii) With .16 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood; and

(3) For an offense that occurs within five years of two prior convictions for offenses under this section[~~by~~]:



- (A) A fine of \$1,000;
- (B) Revocation of license and privilege to operate a vehicle for a period of not less than ninety days but not more than one year;
- (C) Attendance in a course of instruction in driver retraining;
- (D) No fewer than ten days but no more than thirty days of imprisonment of which at least forty-eight hours shall be served consecutively;
- (E) A surcharge of \$25 to be deposited into the neurotrauma special fund;
- (F) May be charged a surcharge of up to \$100 to be deposited into the trauma system special fund if the court so orders; [~~and~~]
- (G) An assessment for driver education pursuant to section 286G-3 [-];
- (H) A vehicle owned by the defendant, used in the commission of the offense, and used by the defendant in at least two prior convictions for offenses under this section may be ordered by the court to be subject to forfeiture under chapter 712A; and
- (I) A vehicle owned by the defendant, used in the commission of a violation of this paragraph, shall be ordered by the court to be subject to forfeiture under chapter 712A if the defendant operated or assumed actual physical control of the vehicle while under the influence of an intoxicant with:
  - (i) With .16 or more grams of alcohol per two hundred ten liters of breath; or
  - (ii) With .16 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood."

Offered by: Josh Green M.D. ( ) Carried  
 ( ) Failed to Carry  
 (  ) Withdrawn

