

---

---

## A BILL FOR AN ACT

RELATING TO TRAFFIC SAFETY.

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

1           SECTION 1. Chapter 291E, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:  
4           "§291E-           Endangering a minor while operating a motor  
5 vehicle while under the influence of an intoxicant. (a) A  
6 person commits the offense of endangering a minor while  
7 operating a vehicle while under the influence of an intoxicant  
8 if the person, being eighteen years of age or older, operates or  
9 assumes actual physical control of a vehicle with a passenger,  
10 in or on the vehicle, who is younger than fifteen years of age:  
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;



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

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

5       (b) Endangering a minor while operating a vehicle under  
6       the influence of an intoxicant is a class C felony."

7       SECTION 2. Section 291E-61, Hawaii Revised Statutes, is  
8       amended by amending subsection (b) to read as follows:

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

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

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

20       (B) One-year revocation of license and privilege to  
21       operate a vehicle during the revocation period  
22       and installation during the revocation period of



- 1           an ignition interlock device on any vehicle
- 2           operated by the person;
- 3       (C) Any one or more of the following:
- 4           (i) Seventy-two hours of community service work;
- 5           (ii) Not less than forty-eight hours and not more
- 6                 than five days of imprisonment; or
- 7           (iii) A fine of not less than \$150 but not more
- 8                 than \$1,000;
- 9       (D) A surcharge of \$25 to be deposited into the
- 10           neurotrauma special fund; and
- 11       (E) A surcharge, if the court so orders, of up to \$25
- 12           to be deposited into the trauma system special
- 13           fund;
- 14       (2) For an offense that occurs within five years of a
- 15           prior conviction for an offense under this section or
- 16           section 291E-4 (a):
- 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 revocation period
- 20                 and installation during the revocation period of
- 21                 an ignition interlock device on any vehicle
- 22                 operated by the person;



- 1 (B) Either one of the following:
  - 2 (i) Not less than two hundred forty hours of
  - 3 community service work; or
  - 4 (ii) Not less than five days but not more than
  - 5 thirty days of imprisonment, of which at
  - 6 least forty-eight hours shall be served
  - 7 consecutively;
- 8 (C) A fine of not less than \$500 but not more than
- 9 \$1,500;
- 10 (D) A surcharge of \$25 to be deposited into the
- 11 neurotrauma special fund; and
- 12 (E) A surcharge of up to \$50 if the court so orders,
- 13 to be deposited into the trauma system special
- 14 fund;
- 15 (3) For an offense that occurs within five years of two
- 16 prior convictions for offenses under this section or
- 17 section 291E-4(a):
  - 18 (A) A fine of not less than \$500 but not more than
  - 19 \$2,500;
  - 20 (B) Revocation for two years of license and privilege
  - 21 to operate a vehicle during the revocation period
  - 22 and installation during the revocation period of



- 1           an ignition interlock device on any vehicle
- 2           operated by the person;
- 3           (C) Not less than ten days but not more than thirty
- 4           days imprisonment, of which at least forty-eight
- 5           hours shall be served consecutively;
- 6           (D) A surcharge of \$25 to be deposited into the
- 7           neurotrauma special fund; and
- 8           (E) A surcharge of up to \$50 if the court so orders,
- 9           to be deposited into the trauma system special
- 10          fund; and

11       ~~[(4) In addition to a sentence imposed under paragraphs (1)~~  
12       ~~through (3), any person eighteen years of age or older~~  
13       ~~who is convicted under this section and who operated a~~  
14       ~~vehicle with a passenger, in or on the vehicle, who~~  
15       ~~was younger than fifteen years of age, shall be~~  
16       ~~sentenced to an additional mandatory fine of \$500 and~~  
17       ~~an additional mandatory term of imprisonment of forty-~~  
18       ~~eight hours; provided that the total term of~~  
19       ~~imprisonment for a person convicted under this~~  
20       ~~paragraph shall not exceed the maximum term of~~  
21       ~~imprisonment provided in paragraph (1), (2), or (3),~~  
22       ~~as applicable. Notwithstanding paragraphs (1) and~~



1           ~~(2), the revocation period for a person sentenced~~  
2           ~~under this paragraph shall be not less than two years;~~  
3           ~~and~~

4           ~~(5)]~~ (4) If the person demonstrates to the court that the  
5           person:

6           (A) Does not own or have the use of a vehicle in  
7                 which the person can install an ignition  
8                 interlock device during the revocation period; or

9           (B) Is otherwise unable to drive during the  
10           revocation period,

11 the person shall be absolutely prohibited from driving during  
12 the period of applicable revocation provided in paragraphs (1)  
13 to ~~[(4)]~~ (3); provided that the court shall not issue an  
14 ignition interlock permit pursuant to subsection (i) and the  
15 person shall be subject to the penalties provided by section  
16 291E-62 if the person drives during the applicable revocation  
17 period."

18           SECTION 3. This Act does not affect rights and duties that  
19 matured, penalties that were incurred, and proceedings that were  
20 begun before its effective date.

21           SECTION 4. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on January 1, 2012.

2

INTRODUCED BY:



A handwritten signature in black ink, appearing to read "Paul Amodeo", is written over a horizontal line. A vertical line extends downwards from the signature.

JAN 21 2011



**Report Title:**

Impaired Driving; Minor Passengers

**Description:**

Makes it a class C felony for a person over age 18 to operate a vehicle under the influence of an intoxicant with a passenger who is a minor who is under age 15.

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

