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## A BILL FOR AN ACT

RELATING TO USE OF INTOXICANTS WHILE OPERATING A VEHICLE.

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

1           SECTION 1. Section 291E-61, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3           "(b) A person committing the offense of operating a  
4 vehicle under the influence of an intoxicant shall be sentenced  
5 without possibility of probation or suspension of sentence as  
6 follows:

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

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

14           (B) One-year revocation of license and privilege to  
15 operate a vehicle during the revocation period  
16 and installation during the revocation period of  
17 an ignition interlock device on any vehicle  
18 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) If the court so orders, any one or more of the  
8 following:

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

10 or

11 (ii) A fine of not less than \$150 but not more  
12 than \$1,000;

13 [~~D)] (E) A surcharge of \$25 to be deposited into the~~

14 neurotrauma special fund; and

15 [~~E)] (F) A surcharge, if the court so orders, of up~~

16 to \$25 to be deposited into the trauma system

17 special fund;

18 (2) For an offense that occurs within five years of a

19 prior conviction for an offense under this section or

20 section 291E-4(a):

21 (A) Revocation for not less than eighteen months nor

22 more than two years of license and privilege to



1 operate a vehicle during the revocation period  
2 and installation during the revocation period of  
3 an ignition interlock device on any vehicle  
4 operated by the person;

5 (B) ~~[Either one of the following:~~

6 ~~(i) Not less than two hundred forty hours of  
7 community service work; or~~

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

12 (C) [A] If the court so orders, any one or more of  
13 the following:

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

16 (ii) A fine of not less than \$500 but not more  
17 than \$1,500;

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

20 (E) A surcharge of up to \$50 if the court so orders,  
21 to be deposited into the trauma system special  
22 fund;



- 1           (3) For an offense that occurs within five years of two  
2           prior convictions for offenses under this section or  
3           section 291E-4(a):
- 4           (A) A fine of not less than \$500 but not more than  
5                 \$2,500;
- 6           (B) Revocation for two years of license and privilege  
7                 to operate a vehicle during the revocation period  
8                 and installation during the revocation period of  
9                 an ignition interlock device on any vehicle  
10                operated by the person;
- 11          (C) Not less than ten days but not more than thirty  
12                 days imprisonment, of which at least forty-eight  
13                 hours shall be served consecutively;
- 14          (D) A surcharge of \$25 to be deposited into the  
15                 neurotrauma special fund; and
- 16          (E) A surcharge of up to \$50 if the court so orders,  
17                 to be deposited into the trauma system special  
18                 fund;
- 19          (4) In addition to a sentence imposed under paragraphs (1)  
20                 through (3), any person eighteen years of age or older  
21                 who is convicted under this section and who operated a  
22                 vehicle with a passenger, in or on the vehicle, who



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

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

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

17 (B) Is otherwise unable to drive during the  
18 revocation period,

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



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1 be subject to the penalties provided by section 291E-62 if the  
2 person drives during the applicable revocation period."

3 SECTION 2. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

6 SECTION 3. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 4. This Act shall take effect upon its approval.

9

INTRODUCED BY: Cindy Evans  
Denny Coffey

JAN 21 2011



**Report Title:**

Operating a Vehicle Under the Influence of an Intoxicant;  
Mandatory Imprisonment

**Description:**

Changes the discretionary term of imprisonment for a person convicted of a first or second offense of operating a vehicle under the influence of an intoxicant to a mandatory term.

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

