
A BILL FOR AN ACT

RELATING TO SENTENCING.

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) A surcharge of \$25 to be deposited into the
- 8 neurotrauma special fund; and
- 9 (E) A surcharge, if the court so orders, of up to \$25
- 10 to be deposited into the trauma system special
- 11 fund;
- 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):
- 15 (A) Revocation for not less than eighteen months nor
- 16 more than two years of license and privilege to
- 17 operate a vehicle during the revocation period
- 18 and installation during the revocation period of
- 19 an ignition interlock device on any vehicle
- 20 operated by the person;
- 21 (B) Either one of the following:



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

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) 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); provided that the court shall not issue an ignition
14 interlock permit pursuant to subsection (i) and the person shall
15 be subject to the penalties provided by section 291E-62 if the
16 person drives during the applicable revocation period[-]; and

17 (6) In addition to a sentence imposed under paragraphs (1)
18 through (3), any person eighteen years of age or older
19 who is convicted under this section may be sentenced
20 to any other penalty the court considers to be
21 appropriate including a public display involving an



1 admission of guilt of the offense; provided that the
2 penalty:

3 (A) Is reasonably related to the factors set forth in
4 section 706-606(1), (2)(b), (2)(c), and (2)(d);
5 and

6 (B) Involves no greater deprivation of liberty than
7 is reasonably necessary for the purposes set
8 forth in section 706-606(2)(b), (2)(c), and
9 (2)(d)."

10 SECTION 2. Section 291E-61.5, Hawaii Revised Statutes, is
11 amended by amending subsection (d) to read as follows:

12 "(d) For a conviction under this section, the sentence
13 shall be either:

14 (1) An indeterminate term of imprisonment of five years;

15 or

16 (2) A term of probation of five years, with conditions to
17 include:

18 (A) Mandatory revocation of license and privilege to
19 operate a vehicle for a period not less than one
20 year but not more than five years;



- 1 (B) Not less than ten days imprisonment, of which at
2 least forty-eight hours shall be served
3 consecutively;
- 4 (C) Referral to a certified substance abuse counselor
5 as provided in section 291E-61(d);
- 6 (D) A surcharge of \$25 to be deposited into the
7 neurotrauma special fund; ~~and~~
- 8 (E) May be charged a surcharge of up to \$50 to be
9 deposited into the trauma system special fund if
10 the court so orders ~~[]~~; and
- 11 (F) Any other condition the court considers to be
12 appropriate including a public display involving
13 an admission of guilt of the offense; provided
14 that the condition:
- 15 (i) Is reasonably related to the factors set
16 forth in section 706-606(1), (2)(b), (2)(c),
17 and (2)(d); and
- 18 (ii) Involves no greater deprivation of liberty
19 than is reasonably necessary for the
20 purposes set forth in section 706-606(2)(b),
21 (2)(c), and (2)(d).



1 In addition to the foregoing, any vehicle owned and operated by
2 the person committing the offense shall be subject to forfeiture
3 pursuant to chapter 712A, provided that the department of
4 transportation shall provide storage for vehicles forfeited
5 under this subsection."

6 SECTION 3. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect upon its approval.

12

INTRODUCED BY:

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JAN 21 2011



Report Title:

Operating a Vehicle Under the Influence of an Intoxicant;
Sentencing

Description:

Expands the discretion of the court to impose penalties for violations of sections 291E-61 and 291E-61.5, HRS, that are reasonably related to the objective of rehabilitation.

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

