

JAN 19 2012

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 as follows:

3 1. By amending subsection (b) to read:

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

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

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

15 (B) One-year [~~revocation~~] suspension of license and
16 privilege to operate a vehicle during the
17 [~~revocation~~] suspension period and installation
18 [~~during the revocation period~~] of an ignition



1 interlock device for a period of two years on any
2 vehicle operated by the person;

3 (C) Any one or more of the following:

4 (i) Seventy-two hours of community service work;
5 or

6 ~~[(ii) Not less than forty eight hours and not more~~
7 ~~than five days of imprisonment; or~~

8 ~~(iii)]~~ (ii) A fine of not less than \$150 but not
9 more than \$1,000;

10 (D) A surcharge of \$25 to be deposited into the
11 neurotrauma special fund; [and]

12 (E) A surcharge, if the court so orders, of up to \$25
13 to be deposited into the trauma system special
14 fund; and

15 (F) Mandatory imprisonment of not less than forty-
16 eight hours but not more than fourteen days;

17 (2) For an offense that occurs within five years of a
18 prior conviction for an offense under this section or
19 section 291E-4(a):

20 (A) [~~Revocation~~] Suspension for [~~not less than~~
21 ~~eighteen months nor more than~~] two years of
22 license and privilege to operate a vehicle during



- 1 the ~~[revocation]~~ suspension period and
2 installation ~~[during the revocation period]~~ of an
3 ignition interlock device for a period of three
4 years on any vehicle 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 fine of not less than \$500 but not more than
13 \$1,500;
- 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; and
- 19 (F) Mandatory imprisonment of not less than thirty
20 days but not more than ninety days;



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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~~] Suspension for [~~two~~] three years of
7 license and privilege to operate a vehicle during
8 the [~~revocation~~] suspension period and
9 installation [~~during the revocation period~~] of an
10 ignition interlock device for a period of five
11 years on any vehicle operated by the person;

12 [~~(C) Not less than ten days but not more than thirty~~
13 ~~days imprisonment, of which at least forty eight~~
14 ~~hours shall be served consecutively;~~

15 [~~(D)~~] (C) A surcharge of \$25 to be deposited into the
16 neurotrauma special fund; [~~and~~

17 [~~(E)~~] (D) A surcharge of up to \$50 if the court so
18 orders, to be deposited into the trauma system
19 special fund; and

20 (E) Mandatory imprisonment of four months;

21 (4) In addition to a sentence imposed under paragraphs (1)
22 through (3), any person eighteen years of age or older



1 who is convicted under this section and who operated a
2 vehicle with a passenger, in or on the vehicle, who
3 was younger than fifteen years of age, shall be
4 sentenced to an additional mandatory fine of \$500 and
5 an additional mandatory term of imprisonment of forty-
6 eight hours; provided that [~~the~~]:

7 (A) The total term of imprisonment for a person
8 convicted under this paragraph shall not exceed
9 the maximum term of imprisonment provided in
10 paragraph (1), (2), or (3), as applicable[-]; and

11 (B) Notwithstanding paragraphs (1) and (2), the
12 ~~revocation]~~ suspension period for a person
13 sentenced under this paragraph shall be not less
14 than two years; and

15 (5) If the person demonstrates to the court that the
16 person:

17 (A) Does not own or have the use of a vehicle in
18 which the person can install an ignition
19 interlock device during the [~~revocation]~~
20 suspension period; or

21 (B) Is otherwise unable to drive during the
22 [~~revocation]~~ suspension period, the person shall



1 be absolutely prohibited from driving during the
2 period of applicable [~~revocation~~] suspension
3 provided in paragraphs (1) to (4); provided that
4 the court shall not issue an ignition interlock
5 permit pursuant to subsection (i) and the person
6 shall be subject to the penalties provided by
7 section 291E-62 if the person drives during the
8 applicable [~~revocation~~] suspension period."

9 2. By amending subsection (d) to read:

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

18 3. By amending subsection (g) to read:

19 "(g) Notwithstanding any other law to the contrary, any:

20 (1) Conviction under this section, section 291E-4(a), or
21 section 291E-61.5;



1 (2) Conviction in any other state or federal jurisdiction
2 for an offense that is comparable to operating or
3 being in physical control of a vehicle while having
4 either an unlawful alcohol concentration or an
5 unlawful drug content in the blood or urine or while
6 under the influence of an intoxicant or habitually
7 operating a vehicle under the influence of an
8 intoxicant; or

9 (3) Adjudication of a minor for a law violation that, if
10 committed by an adult, would constitute a violation of
11 this section or an offense under section 291E-4(a), or
12 section 291E-61.5,

13 shall be considered a prior conviction for the purposes of
14 imposing sentence under this section. Any judgment on a verdict
15 or a finding of guilty, a plea of guilty or nolo contendere, or
16 an adjudication, in the case of a minor, that at the time of the
17 offense has not been expunged by pardon, reversed, or set aside
18 shall be deemed a prior conviction under this section. No
19 license and privilege [~~revocation~~] suspension shall be imposed
20 pursuant to this section if the person's license and privilege
21 to operate a vehicle has previously been administratively
22 revoked pursuant to part III for the same act; provided that, if



1 the administrative revocation is subsequently reversed, the
2 person's license and privilege to operate a vehicle shall be
3 [~~revoked~~] suspended as provided in this section. There shall be
4 no requirement for the installation of an ignition interlock
5 device pursuant to this section if the requirement has
6 previously been imposed pursuant to part III for the same act;
7 provided that, if the requirement is subsequently reversed, a
8 requirement for the installation of an ignition interlock device
9 shall be imposed as provided in this section."

10 4. By amending subsection (j) to read:

11 "(j) Notwithstanding any other law to the contrary,
12 whenever a court [~~revokes~~] suspends a person's driver's license
13 pursuant to this section, the examiner of drivers shall not
14 grant to the person a new driver's license until the expiration
15 of the period of [~~revocation~~] suspension determined by the
16 court. After the period of [~~revocation~~] suspension is
17 completed, the person may apply for and the examiner of drivers
18 may grant to the person a new driver's license."

19 SECTION 2. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



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1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

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

4

INTRODUCED BY: Josh M

*Yes change
with zero*



S.B. NO. 2102

Report Title:

Driving Under the Influence

Description:

Requires suspension instead of revocation of license, imposes mandatory terms of imprisonment, and requires installation of ignition interlock devices for specified periods for conviction of DUI offense.

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

