

JAN 15 2014

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) 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; and
- 14 (F) Impoundment for a period of six months of the
15 vehicle driven by the offender in the offense and
16 registered to the offender; provided that if the
17 vehicle driven by the offender in the offense is
18 not registered to the offender then any vehicle
19 registered to the offender at the time of the
20 arrest shall be impounded;



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; and

19 (F) Impoundment for a period of six months of the
20 vehicle driven by the offender in the offense and
21 registered to the offender; provided that if the
22 vehicle driven by the offender in the offense is



1 not registered to the offender then all vehicles
2 registered to the offender at the time of the
3 arrest shall be impounded;

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

19 (5) If the person demonstrates to the court that the
20 person:



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

4 (B) Is otherwise unable to drive during the
 5 revocation period,

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

12 SECTION 2. This Act does not affect rights and duties that
 13 matured, penalties that were incurred, and proceedings that were
 14 begun before its effective date.

15 SECTION 3. Statutory material to be repealed is bracketed
 16 and stricken. New statutory material is underscored.

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

18

INTRODUCED BY: John Harris
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S.B. NO. 2053

Report Title:

Use of Intoxicants While Operating a Vehicle

Description:

Requires impoundment of a vehicle registered to the offender for the period of license revocation for the second and subsequent offenses.

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

