

S.B. NO. 1142

JAN 28 2015

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A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

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

1

PART I

2

TRAFFIC VIOLATIONS

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SECTION 1. Section 291-3.3, Hawaii Revised Statutes, is

4

amended to read as follows:

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"§291-3.3 Storage of opened container containing

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intoxicating liquor or consumption at scenic lookout. (a) No

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person shall keep in a motor vehicle, or on a moped when such

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vehicle or moped is upon any public street, road, or highway or

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at any scenic lookout, any bottle, can, or other receptacle

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containing any intoxicating liquor which has been opened, or a

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seal broken, or the contents of which have been partially

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removed or fully removed, unless such container is kept in the

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trunk of the vehicle, or [~~kept in some other area of the vehicle~~

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~~not normally occupied by the driver or passengers, if the~~

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~~vehicle is not equipped with a trunk.] if the vehicle is not~~

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equipped with a trunk, unless such container is kept in an area

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of the vehicle not normally occupied by the driver or

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passengers, including the area behind the last designed upright

1 seat in the vehicle, or any locked vehicle compartments. A  
2 utility or glove compartment shall be deemed to be within the  
3 area occupied by the driver and passengers.

4 (b) No person shall consume any intoxicating liquor at any  
5 scenic lookout.

6 (c) Subsection (a) shall not apply to [~~a recreational or~~  
7 ~~other vehicle not having a separate trunk compartment.~~] the  
8 storage of any bottle, can, or other receptacle containing any  
9 intoxicating liquor which has been opened, or a seal broken, or  
10 the contents of which have been partially removed or fully  
11 removed within the living quarters of a recreational vehicle,  
12 house coach, or house trailer, or the possession of such bottle,  
13 can, or other receptacle in the living quarters of a  
14 recreational vehicle, house coach, or house trailer, by a  
15 passenger of such a vehicle.

16 (d) Any person violating this section shall be guilty of a  
17 violation."

18 **PART II**

19 **USE OF INTOXICANTS WHILE OPERATING A VEHICLE**

20 SECTION 2. Section 291E-6, Hawaii Revised Statutes, is  
21 amended to read as follows:

1           "§291E-6 Ignition interlock devices; certification[~~er~~],  
2 monitoring, and operations and compliance. (a) The director of  
3 transportation shall establish and administer a statewide  
4 program relating to certification, ~~and~~ monitoring, and  
5 operations and compliance of ignition interlock devices  
6 installed pursuant to chapter 291E and shall select a single  
7 vendor to install and maintain them.

8           (b) The program shall include standards established by the  
9 National Highway Traffic Safety Administration and procedures  
10 for the certification of ignition interlock devices installed  
11 pursuant to chapter 291E. At a minimum, the standards shall  
12 require that the devices:

- 13           (1) Be certified by an independent laboratory to meet or  
14           exceed the guidelines published by the National  
15           Highway Traffic Safety Administration;
- 16           (2) Operate using an alcohol-specific sensor technology;
- 17           (3) Employ a digital camera by which a photograph of the  
18           person using the device can be incorporated into the  
19           electronic record generated by each use of the device;
- 20           (4) Require a rolling retest by which the driver must,  
21           within a specified period of time or distance driven  
22           after starting the vehicle, be retested and found to

1           have an alcohol concentration of less than .02, with a  
2           margin of error of .01; and

3           (5) Generate a record of vehicle usage, including dates  
4           and times driven.

5           (c) The program shall include standards and procedures for  
6           the certification of the vendor selected to install and maintain  
7           ignition interlock devices pursuant to chapter 291E. At a  
8           minimum, the standards shall require that the vendor:

9           (1) Install only an ignition interlock device that is  
10           certified pursuant to this section;

11           (2) Offer or contract for ignition interlock device  
12           installation and maintenance statewide;

13           (3) Train drivers who are required to install an ignition  
14           interlock device, pursuant to chapter 291E, in how to  
15           use the device;

16           (4) Schedule the driver for all necessary readings and  
17           maintenance of the device; and

18           (5) Provide periodic reports regarding the use of each  
19           ignition interlock device installed pursuant to  
20           chapter 291E, including incidents of test failure,  
21           attempts to circumvent the device, and dates, times,  
22           and distances the vehicle was driven.

1 (d) The vendor selected for installation and maintenance  
2 of ignition interlock devices pursuant to chapter 291E shall be  
3 audited annually by the director of transportation pursuant to  
4 this section and the rules adopted thereunder. The director of  
5 transportation may require the vendor to pay for all or part of  
6 the costs incurred in conducting the audit.

7 (e) The director of transportation shall review all  
8 ignition interlock reports submitted by the vendor and monitor  
9 these reports for compliance with established rules.

10 [~~e~~] (f) The director of transportation shall adopt rules  
11 pursuant to chapter 91 necessary for the purposes of this  
12 section."

13 SECTION 3. Section 291E-44.5, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§291E-44.5 Ignition interlock permits; driving for**  
16 **employment.** (a) Except as provided in subsection (b), upon  
17 proof that the respondent has installed an ignition interlock  
18 device in any vehicle the respondent operates and obtained motor  
19 vehicle insurance or self-insurance that complies with the  
20 requirements of section 431:10C-104 or 431:10C-105, the director  
21 shall issue an ignition interlock permit that will allow the

1 respondent to drive a vehicle equipped with an ignition  
2 interlock device during the revocation period.

3 (b) Except as provided in sections 286-118.5 and 291E-  
4 61.6, the director shall not issue an ignition interlock permit  
5 to:

6 (1) A respondent whose license is expired, suspended, or  
7 revoked as a result of action other than the instant  
8 revocation;

9 (2) A respondent who does not hold a valid license at the  
10 time of arrest for the violation of section 291E-61;

11 (3) A respondent who holds a license that is a learner's  
12 permit or instruction permit; or

13 (4) A respondent who holds either a category 4 license  
14 under section 286-102(b) or a commercial driver's  
15 license under section 286-239(a) unless the ignition  
16 interlock permit is restricted to a category 1, 2, or  
17 3 license under section 286-102(b).

18 (c) Except as provided in subsection (b), the director may  
19 issue a separate permit authorizing a respondent to operate a  
20 vehicle owned by the respondent's employer during the period of  
21 revocation without installation of an ignition interlock device  
22 if the respondent is gainfully employed in a position that

1 requires driving and the respondent will be discharged if  
2 prohibited from driving a vehicle not equipped with an ignition  
3 interlock device[-]; provided that the respondent's license has  
4 not been previously revoked for sections 291E-41, 291E-61, or  
5 291E-61.5 in the preceding five years, other than the instant  
6 revocation.

7 (d) A request made pursuant to subsection (c) shall be  
8 accompanied by:

9 (1) A sworn statement from the respondent containing facts  
10 establishing that the respondent currently is employed  
11 in a position that requires driving and that the  
12 respondent will be discharged if prohibited from  
13 driving a vehicle not equipped with an ignition  
14 interlock device; and

15 (2) A sworn statement from the respondent's employer  
16 establishing that the employer will, in fact,  
17 discharge the respondent if the respondent is  
18 prohibited from driving a vehicle not equipped with an  
19 ignition interlock device and identifying the specific  
20 vehicle or vehicles and hours of the day the  
21 respondent will drive, not to exceed twelve hours per  
22 day, for purposes of employment.

1 (e) A permit issued pursuant to subsection (c) shall  
2 include restrictions allowing the respondent to drive:

3 (1) Only during specified hours of employment, not to  
4 exceed twelve hours per day, and only for activities  
5 solely within the scope of the employment;

6 (2) Only the vehicles specified; and

7 (3) Only if the permit is kept in the respondent's  
8 possession while operating the employer's vehicle.

9 In addition, the director may impose other appropriate  
10 restrictions."

11 SECTION 4. Section 291E-61, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 **"§291E-61 Operating a vehicle under the influence of an**  
14 **intoxicant.** (a) A person commits the offense of operating a  
15 vehicle under the influence of an intoxicant if the person  
16 operates or assumes actual physical control of a vehicle:

17 (1) While under the influence of alcohol in an amount  
18 sufficient to impair the person's normal mental  
19 faculties or ability to care for the person and guard  
20 against casualty;



1 (2) While under the influence of any drug that impairs the  
2 person's ability to operate the vehicle in a careful  
3 and prudent manner;

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

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

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

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

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

18 (B) One-year revocation of license and privilege to  
19 operate a vehicle during the revocation period  
20 and the installation during the revocation period  
21 of an ignition interlock device on any vehicle  
22 operated by the person;

- 1 (C) Any one or more of the following:
  - 2 (i) Seventy-two hours of community service
  - 3 work;
  - 4 (ii) Not less than forty-eight hours and not
  - 5 more than five days of imprisonment; or
  - 6 (iii) A fine of not less than [~~\$150~~] \$300 but
  - 7 not more than \$1,000;
- 8 (D) A surcharge of \$25 to be deposited into the
- 9 neurotrauma special fund; and
- 10 (E) A surcharge, if the court so orders, of up to \$25
- 11 to be deposited into the trauma system special
- 12 fund;
- 13 (2) For an offense that occurs within five years of a
- 14 prior conviction for an offense under this section or
- 15 section 291E-4(a):
  - 16 (A) Revocation for not less than eighteen months nor
  - 17 more than two years of license [~~and privilege to~~
  - 18 ~~operate a vehicle during the revocation period]~~
  - 19 and the installation during the revocation period
  - 20 of an ignition interlock device on any vehicle
  - 21 operated by the person;
  - 22 (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~~] \$1,000 but not
- 18 more than \$2,500;
- 19 (B) Revocation for two years of license [~~and~~
- 20 ~~privilege to operate a vehicle during the~~
- 21 ~~revocation period]~~ and the installation the

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

19 (c) Except as provided in sections 286-118.5 and 291E-  
20 61.6, the court shall not issue an ignition interlock permit to:

- 1           (1) A defendant whose license is expired, suspended, or  
2                    revoked as a result of action other than the instant  
3                    offense;
- 4           (2) A defendant who does not hold a valid license at the  
5                    time of the instant offense;
- 6           (3) A defendant who holds either a category 4 license  
7                    under section 286-102(b) or a commercial driver's  
8                    license under section 286-239(a), unless the ignition  
9                    interlock permit is restricted to a category 1, 2, or  
10                  3 license under section 286-102(b); or
- 11          (4) A defendant who holds a license that is a learner's  
12                  permit or instruction permit.
- 13          (d) Except as provided in subsection (c), the court may  
14                  issue a separate permit authorizing a defendant to operate a  
15                  vehicle owned by the defendant's employer during the period of  
16                  revocation without installation of an ignition interlock device  
17                  if the defendant is gainfully employed in a position that  
18                  requires driving and the defendant will be discharged if  
19                  prohibited from driving a vehicle not equipped with an ignition  
20                  interlock device[-] [-]; provided that the respondent's license  
21                  has not been previously revoked for sections 291E-41, 291E-61,  
22                  or 291E-61.5 in the preceding five years, other than the instant

1 revocation; provided that it is the defendant's first conviction  
2 within a five-year period or any previous conviction for an  
3 offense under this section or section 291E-61.5 or 291E-4(a).

4 (e) A request made pursuant to subsection (d) shall be  
5 accompanied by:

6 (1) A sworn statement from the defendant containing facts  
7 establishing that the defendant currently is employed  
8 in a position that requires driving and that the  
9 defendant will be discharged if prohibited from  
10 driving a vehicle not equipped with an ignition  
11 interlock device; and

12 (2) A sworn statement from the defendant's employer  
13 establishing that the employer will, in fact,  
14 discharge the defendant if the defendant is prohibited  
15 from driving a vehicle not equipped with an ignition  
16 interlock device and identifying the specific vehicle  
17 and hours of the day, not to exceed twelve hours per  
18 day, the defendant will drive for purposes of  
19 employment.

20 (f) A permit issued pursuant to subsection (d) shall  
21 include restrictions allowing the defendant to drive:

- 1 (1) Only during specified hours of employment, not to  
2 exceed twelve hours per day, and only for activities  
3 solely within the scope of the employment;
- 4 (2) Only the vehicle specified; and
- 5 (3) Only if the permit is kept in the defendant's  
6 possession while operating the employer's vehicle.
- 7 (g) Notwithstanding any other law to the contrary, any:
- 8 (1) Conviction under this section, section 291E-4(a), or  
9 section 291E-61.5;
- 10 (2) Conviction in any other state or federal jurisdiction  
11 for an offense that is comparable to operating or  
12 being in physical control of a vehicle while having  
13 either an unlawful alcohol concentration or an  
14 unlawful drug content in the blood or urine or while  
15 under the influence of an intoxicant or habitually  
16 operating a vehicle under the influence of an  
17 intoxicant; or
- 18 (3) Adjudication of a minor for a law violation that, if  
19 committed by an adult, would constitute a violation of  
20 this section or an offense under section 291E-4(a), or  
21 section 291E-61.5, shall be considered a prior  
22 conviction for the purposes of imposing sentence under



1           this section. Any judgment on a verdict or a finding  
2           of guilty, a plea of guilty or nolo contendere, or an  
3           adjudication, in the case of a minor, that at the time  
4           of the offense has not been expunged by pardon,  
5           reversed, or set aside shall be deemed a prior  
6           conviction under this section. No license and  
7           privilege revocation shall be imposed pursuant to this  
8           section if the person's license and privilege to  
9           operate a vehicle has previously been administratively  
10          revoked pursuant to part III for the same act;  
11          provided that, if the administrative revocation is  
12          subsequently reversed, the person's license and  
13          privilege to operate a vehicle shall be revoked as  
14          provided in this section. There shall be no  
15          requirement for the installation of an ignition  
16          interlock device pursuant to this section if the  
17          requirement has previously been imposed pursuant to  
18          part III for the same act; provided that, if the  
19          requirement is subsequently reversed, a requirement  
20          for the installation of an ignition interlock device  
21          shall be imposed as provided in this section.

1           (h) Whenever a court sentences a person pursuant to  
2 subsection (b), it also shall require that the offender be  
3 referred to the driver's education program for an assessment, by  
4 a certified substance abuse counselor, of the offender's  
5 substance abuse or dependence and the need for appropriate  
6 treatment. The counselor shall submit a report with  
7 recommendations to the court. The court shall require the  
8 offender to obtain appropriate treatment if the counselor's  
9 assessment establishes the offender's substance abuse or  
10 dependence. All costs for assessment and treatment shall be  
11 borne by the offender.

12           (i) Upon proof that the defendant has:

- 13           (1) Installed an ignition interlock device in any vehicle  
14           the defendant operates pursuant to subsection (b); and  
15           (2) Obtained motor vehicle insurance or self-insurance  
16           that complies with the requirements under either  
17           section 431:10C-104 or section 431:10C-105, the court  
18           shall issue an ignition interlock permit that will  
19           allow the defendant to drive a vehicle equipped with  
20           an ignition interlock device during the revocation  
21           period.

1 (j) Notwithstanding any other law to the contrary,  
2 whenever a court revokes a person's driver's license pursuant to  
3 this section, the examiner of drivers shall not grant to the  
4 person a new driver's license until the expiration of the period  
5 of revocation determined by the court. After the period of  
6 revocation is completed, the person may apply for and the  
7 examiner of drivers may grant to the person a new driver's  
8 license.

9 (k) Any person sentenced under this section may be ordered  
10 to reimburse the county for the cost of any blood or urine tests  
11 conducted pursuant to section 291E-11. The court shall order  
12 the person to make restitution in a lump sum, or in a series of  
13 prorated installments, to the police department or other agency  
14 incurring the expense of the blood or urine test. Except as  
15 provided in section 291E-5, installation and maintenance of the  
16 ignition interlock device required by subsection (b) shall be at  
17 the defendant's own expense.

18 (l) As used in this section, the term "examiner of  
19 drivers" has the same meaning as provided in section  
20 286-2."

21 SECTION 5. Section 291E-61.5, Hawaii Revised Statutes, is  
22 amended to read as follows:

1           "§291E-61.5 Habitually operating a vehicle under the  
2 influence of an intoxicant. (a) A person commits the offense  
3 of habitually operating a vehicle under the influence of an  
4 intoxicant if:

5           (1) The person is a habitual operator of a vehicle while  
6           under the influence of an intoxicant; and

7           (2) The person operates or assumes actual physical control  
8           of a vehicle:

9           (A) While under the influence of alcohol in an amount  
10           sufficient to impair the person's normal mental  
11           faculties or ability to care for the person and  
12           guard against casualty;

13           (B) While under the influence of any drug that  
14           impairs the person's ability to operate the  
15           vehicle in a careful and prudent manner;

16           (C) With .08 or more grams of alcohol per two hundred  
17           ten liters of breath; or

18           (D) With .08 or more grams of alcohol per one hundred  
19           milliliters or cubic centimeters of blood.

20           (b) For the purposes of this section:

21           "Convicted three or more times for offenses of operating a  
22 vehicle under the influence" means that, at the time of the

1 behavior for which the person is charged under this section, the  
2 person had three or more times within ten years of the instant  
3 offense:

4 (1) A judgment on a verdict or a finding of guilty, or a  
5 plea of guilty or nolo contendere, for a violation of  
6 this section or section 291-4, 291-4.4, or 291-7 as  
7 those sections were in effect on December 31, 2001, or  
8 section 291E-61 or 707-702.5;

9 (2) A judgment on a verdict or a finding of guilty, or a  
10 plea of guilty or nolo contendere, for an offense that  
11 is comparable to this section or section 291-4, 291-  
12 4.4, or 291-7 as those sections were in effect on  
13 December 31, 2001, or section 291E-61 or 707-702.5; or

14 (3) An adjudication of a minor for a law or probation  
15 violation that, if committed by an adult, would  
16 constitute a violation of this section or section 291-  
17 4, 291-4.4, or 291-7 as those sections were in effect  
18 on December 31, 2001, or section 291E-61 or 707-702.5;

19 that, at the time of the instant offense, had not been expunged  
20 by pardon, reversed, or set aside. All convictions that have  
21 been expunged by pardon, reversed, or set aside prior to the  
22 instant offense shall not be deemed prior convictions for the

1 purposes of proving the person's status as a habitual operator  
2 of a vehicle while under the influence of an intoxicant.

3 A person has the status of a "habitual operator of a  
4 vehicle while under the influence of an intoxicant" if the  
5 person has been convicted three or more times within ten years  
6 of the instant offense, for offenses of operating a vehicle  
7 under the influence of an intoxicant.

8 (c) Habitually operating a vehicle while under the  
9 influence of an intoxicant is a class C felony.

10 (d) For a conviction under this section, the sentence  
11 shall be either:

12 (1) An indeterminate term of imprisonment of five years;  
13 or

14 (2) A term of probation of five years, with  
15 conditions to include:

16 (A) Mandatory revocation of license and privilege to  
17 operate a vehicle for a period not less than [~~one~~  
18 ~~year~~] three years but not more than five years[+]  
19 and the installation during the revocation period  
20 of an ignition interlock device on any vehicle  
21 operated by the person to commence after  
22 imprisonment;

- 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.
- 11 (F) If the person demonstrates to the court that the  
12 person: Does not own or have the use of a vehicle in  
13 which the person can install an ignition interlock  
14 device during the revocation period; or is otherwise  
15 unable to drive during the revocation period; and  
16 (i) The person shall be absolutely prohibited  
17 from driving during the period of applicable  
18 revocation as provided in paragraph (2) (A); and  
19 the court shall not issue an ignition interlock  
20 permit pursuant to subsection (2) (A) and the  
21 person shall be subject to the penalties provided

1           by section 291E-62 if the person drives during  
2           the applicable revocation period; and  
3           (ii) The courts shall require that the person be  
4           subject to an alcohol monitoring device or drug  
5           testing or both and require the person be tested  
6           for either or both at unannounced times during  
7           the revocation period.

8   In addition to the foregoing, any vehicle owned and operated by  
9   the person committing the offense shall be subject to forfeiture  
10  pursuant to chapter 712A, provided that the department of  
11  transportation shall provide storage for vehicles forfeited  
12  under this subsection.

13       (e) Whenever a court sentences a person under this  
14  section, it shall also require that the offender be referred to  
15  the driver's education program for an assessment, by a certified  
16  substance abuse counselor, of the offender's substance abuse or  
17  dependence and the need for appropriate treatment. The  
18  counselor shall submit a report with recommendations to the  
19  court. The court shall require the offender to obtain  
20  appropriate treatment if the counselor's assessment establishes  
21  the offender's substance abuse or dependence. All costs for  
22  assessment and treatment shall be borne by the offender.



1           (f) Notwithstanding any other law to the contrary,  
 2 whenever a court revokes a person's driver's license pursuant to  
 3 this section, the examiner of drivers shall not grant to the  
 4 person a new driver's license until expiration of the period of  
 5 revocation determined by the court. After the period of  
 6 revocation is complete, the person may apply for and the  
 7 examiner of drivers may grant to the person a new driver's  
 8 license.

9           (g) Any person sentenced under this section may be ordered  
 10 to reimburse the county for the cost of any blood or urine tests  
 11 conducted pursuant to section 291E-11. The court shall order  
 12 the person to make restitution in a lump sum, or in a series of  
 13 prorated installments, to the police department or other agency  
 14 incurring the expense of the blood or urine test.

15           (h) As used in this section, the term "examiner of  
 16 drivers" has the same meaning as provided in section 286-2."

17   **PART III**

18           SECTION 6. 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   **PART IV**

S.B. NO. 1142

1 SECTION 7. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 8. This Act shall take effect upon approval.

4  
5 INTRODUCED BY: *Anne Meranda K.*

6 BY REQUEST

**Report Title:**

Highway Safety; Ignition Interlock; Motor Vehicle

**Description:**

Amends the law for operating a vehicle under the influence of an intoxicant. Mandates the use of an ignition interlock for all offenders convicted and adjudicated for the offense of operating a vehicle under the influence of an intoxicant. Increases the fines for the violation. Removes the exemption for the repeat offender to drive without an ignition interlock if employed and required to drive a company vehicle for employment. Authorizes the director of transportation to make administrative rules governing the certification, monitoring, operation and compliance of the ignition interlock and authorizes penalties under these rules.

Amends the law relating to the storage of opened container that contains intoxicating liquor or the consumption at the scenic lookout and clarify where intoxicating liquor may be kept in a motor vehicle. Further clarifies who and where an opened container may be possessed in a recreational vehicle, house coach or house trailer.

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

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY.

PURPOSE: PART I - To amend the law relating to the storage of opened container that contains intoxicating liquor or the consumption at a scenic lookout and to clarify where intoxicating liquor may be kept in a motor vehicle and recreational vehicle, house coach, or house trailer.

PART II - To amend the laws regarding the certification, monitoring, operation and compliances of a vehicle under the influence of an intoxicant; to mandate the use of an ignition interlock for all offenders convicted of operating a vehicle under the influence of an intoxicant; to remove the exemption for repeat offenders of driving without an ignition interlock for those who are employed and must drive a company vehicle as a condition of employment; to increase the fines; to authorize the Director of Transportation to adopt or promulgate administrative rules governing the operations and compliances of the ignition interlock and to assess penalties for violations of rules.

MEANS: PART I - Amend section 291-3.3, Hawaii Revised Statutes.

PART II - Amend sections 291E-6, 291E-44.5, 291E-61, and 291E-61.5, Hawaii Revised Statutes.

JUSTIFICATION: PART I - Hawaii has depended upon federal funding to keep its highways safe from traffic deaths. One of the main causes of highway traffic deaths is the drinking driver. In order that the State of Hawaii protects its people from deaths on its highways, laws are enacted to prevent such

crashes by controlling or removing the presence of alcohol while traveling on the highway. To accomplish this, clear laws are enacted to prevent the presence of alcohol in a motor vehicle while traveling on a public highway or parked at a scenic lookout. To enforce the storage of open alcohol containers in motor vehicles and prevent drivers and passengers from consuming alcohol while on a public highway, the state applies for federal funding. However, to obtain federal funds, certain requirements must be met to qualify for this federal funding. Although Hawaii's open container law was passed in 1980, federal grant requirements were recently brought to the department of transportation's attention. The National Highway Traffic Safety Administration has notified the State Department of Transportation that Hawaii law does not meet the requirements for an open container grant. Hawaii's alcohol open container law prohibits the storage of the open container in a motor vehicle unless the container is kept in the trunk of the vehicle or, if the vehicle is not equipped with a trunk, in an area not normally occupied by the driver or passenger. However, the state exempts from these requirements any "recreational or other vehicle not having a separate trunk compartment." This has created two grant compliance issues. Hawaii law impermissibly exempts from coverage all vehicles without a trunk. The federal requirements apply to vehicles without trunks and specify that, for such vehicles, open containers may be stored only in locked vehicle compartments (e.g. a locked glove box) or in specified areas (i.e., behind the last upright seat or in an area not normally occupied by the driver or a passenger of these vehicle). The second issue is that Hawaii law neither limits where open containers may be possessed in recreational vehicles nor who in those vehicles may possess them. The federal requirements specify that open containers may be stored only in the living quarters of a

recreational vehicle and may be possessed only by passengers (not by the driver). In the absence meeting the federal requirements of an open container law, the transfer of federal highway funds by the Federal Highway Administration will be diverted to other areas of impaired driving countermeasures. Although this may be good, it would deprive the general highway funding. In 2013, the amount that was transferred was \$7,000,000 and for 2014 a total of \$6,600,000 will be transferred to other areas of highway construction.

PART II - Hawaii's ignition interlock law came into effect on January 1, 2011. An ignition interlock task force was formed to draft Hawaii's interlock law. At the time the law was passed, everyone knew it was not a perfect law and there were many problems and unknown factors the task force knew would have to be fixed as time passed. Since the law went into effect, it has been successful in preventing vehicles from starting due to the presence of alcohol in a person. The department of transportation has depended on federal highway safety grants to educate the public about the ignition interlock program. In applying for the federal highway safety grants, there were several requirements that Hawaii did not meet. In order to qualify for grant funding, it is required that Hawaii laws be amended to qualify for these grants. It is the nature of these grants that because Hawaii's laws do not qualify, a percentage of highway funds obtained from the Federal Highway Administration be transferred to the impaired driving programs. Although this is good for the impaired driving aspect, it is not good for the state's highway funding. In 2013, \$7,000,000 was subject to this transfer. In 2014, the amount will be \$6,600,000. Without the highway funding, many highway road projects could be cancelled due to a lack of funding.

Under the present fine structure, the fine for a first offense operating a vehicle under the influence of an intoxicant is \$150, the fine for a second is \$500, and the fine for a third offense is \$500. The fines are too low or are equal for the second and third time. The recommended fines should be set at \$300 for a first offense, \$500 for a second offense, and \$1,000 for a third offense to act as a stronger deterrence for this violation.

The present law authorizes the Director of Transportation to promulgate administrative rules to establish the certification of the ignition interlock. To further the rules, we are recommending that it includes the monitoring, operation and compliance of the ignition interlock program.

The impact of the transfer of federal funding on Hawaii will be the lack of resources to prevent drunk driving. Hawaii's alcohol-impaired related fatalities each year (2009-2013) averaged 45 percent, which is higher than the national average for these same years of 35 percent. If Hawaii is to reduce the number of alcohol-impaired fatalities, federal funding is necessary to change the behavior of the drinking public who continue to drink and drive through enforcement, education, and engineering. This bill will enable Hawaii to qualify for additional funding in the area of impaired driving by \$1,000,000 - \$1,500,000 and will not only strengthen the laws but to bring it in line with national policy.

Impact on the public: PART I - Highway projects may be delayed due to the diversion of highway construction funding.

PART II - The transfer of highway construction funds to other transportation areas would mean a reduction of highway construction projects on roadways. The

public will lose the benefit of needed repairs on the highway.

Impact on the department and other agencies:

PART I - Due to the lack of moneys for highway construction, projects will be held and delayed.

PART II - The loss of grant money for the enforcement of detecting drivers operating under the influence of an intoxicant will result in more highway deaths due to the lack of enforcement.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESTIGNATION: TRN 595.

OTHER AFFECTED  
AGENCIES: County police departments.

EFFECTIVE DATE: Upon approval.