

---

---

# A BILL FOR AN ACT

RELATING TO OPERATING A VEHICLE WHILE INTOXICATED.

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

1           SECTION 1. Chapter 291E, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§291E-     Motor vehicle impoundment. (a) When a law  
5 enforcement officer arrests, or issues a summons or citation to,  
6 an operator of a motor vehicle for:

7           (1) Operating a vehicle under the influence of an  
8           intoxicant, as provided in section 291E-61;

9           (2) Habitually operating a vehicle under the influence of  
10           an intoxicant, as provided in section 291E-61.5;

11           (3) Operating a vehicle after license and privilege have  
12           been suspended or revoked for operating a vehicle  
13           under the influence of an intoxicant, as provided in  
14           section 291E-62; or

15           (4) Operating a vehicle after consuming a measurable  
16           amount of alcohol as provided in section 291E-64;



1 the officer may cause a tow of the motor vehicle at the owner's  
2 expense to a private tow yard, as provided in section  
3 291C-165.5.

4 (b) Law enforcement officers shall not cause to be towed  
5 any motor vehicle under this section if:

- 6 (1) The motor vehicle is parked on private property on  
7 which the registered owner or operator is legally  
8 residing, or the property owner does not object to the  
9 motor vehicle being left in the parked location;
- 10 (2) The registered owner or a passenger present in the  
11 vehicle when the operator is arrested, or when a  
12 summons or citation is issued, has a valid driver's  
13 license and is willing and legally able to operate the  
14 motor vehicle;
- 15 (3) The motor vehicle is legally parked at a time and  
16 place where the likelihood of it being subject to  
17 theft or vandalism is remote and traffic or public  
18 safety is not impeded; or
- 19 (4) The motor vehicle is engaged in community caretaking  
20 at the time of the encounter. As used in this  
21 paragraph, "community caretaking" means any situation



1           in which a law enforcement officer is using the  
2           vehicle for a consensual police-citizen encounter that  
3           is unrelated to the investigation or detection of any  
4           criminal activity.

5           (c) No county police department or law enforcement officer  
6           shall be responsible for the protection of a motor vehicle left  
7           on any public way or private property after the motor vehicle's  
8           operator has been arrested for a violation listed in subsection  
9           (a)."

10           SECTION 2. Section 291C-165.5, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12           "(a) Notwithstanding any other provision of this chapter,  
13 any vehicle identified for removal pursuant to any county  
14 ordinance or section 291E- ordering or authorizing removal of  
15 motor vehicles by any county police department for traffic  
16 violations, including a vehicle [~~which~~] that constitutes an  
17 obstruction or hazard to traffic, may be towed away at the  
18 expense of the registered owner of the vehicle, as provided by  
19 this section."

20           SECTION 3. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



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



**Report Title:**

Operating a Vehicle While Intoxicated; Motor Vehicle; Towing

**Description:**

Allows law enforcement officers to cause to be towed a motor vehicle if the operator is arrested or cited for various alcohol-related traffic offenses. Adds an exception for community caretaking. Provides definition of "community caretaking". (SD1)

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

