
A BILL FOR AN ACT

RELATING TO CONTINUOUS ALCOHOL MONITORING FOR REPEAT OFFENDERS.

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 part I to be appropriately
3 designated and to read as follows:
4 "§291E- Continuous alcohol monitoring device;
5 requirement; penalties. (a) Any person charged with a
6 violation of section 291E-61 or 291E-61.5:
7 (1) Within five years of a prior conviction for an offense
8 under section 291E-61 or 291E-61.5; or
9 (2) While pending criminal investigation or prosecution
10 for one or more prior charges of violating section
11 291E-61 or 291E-61.5,
12 shall refrain from consuming any alcohol and shall submit to
13 monitoring by a continuous alcohol monitoring device for a
14 period of no less than ninety days. If, following the person's
15 arrest, the person is released on bail by the sheriff, deputy
16 sheriff, chief of police, or any person named by the chief of



1 police, the person shall be scheduled for an initial court
2 appearance within five business days.

3 (b) At the person's initial court appearance, the person
4 shall be ordered to refrain from consuming any alcohol and to
5 submit to monitoring by a continuous alcohol monitoring device,
6 for a period of not less than ninety days, as conditions of
7 release on bail. As further conditions of release on bail, the
8 person shall be ordered to refrain from removing, obstructing,
9 or tampering with the device during the applicable period. The
10 applicable period may be extended by the court at any time,
11 beyond ninety days, as reasonably necessary to ensure the safety
12 of the community, but may not be shortened or suspended. The
13 person shall be fitted with a continuous alcohol monitoring
14 device within five business days of the person's initial court
15 appearance.

16 (c) All costs associated with the monitoring device,
17 including administrative and operating costs, shall be paid by
18 the person. If at any time a court finds that the person lacks
19 the financial ability to pay all or part of the costs for a
20 continuous alcohol monitoring device, the court may authorize
21 the State to finance the person's use of a continuous alcohol



1 monitoring device. A determination that the person lacks the
2 financial ability to pay all or part of the costs for a
3 monitoring device shall be based upon an appropriate inquiry
4 into the financial circumstances of the person and an affidavit
5 or a certificate, signed by the person, demonstrating the
6 person's financial inability to pay the costs for a continuous
7 alcohol monitoring device.

8 (d) For purposes of this section, and notwithstanding any
9 law to the contrary, if the person violates any of the
10 conditions of release on bail as specified in subsection (b),
11 the person's bail shall be declared forfeited and bail shall be
12 reset in the same amount or higher. Such judgment shall not be
13 vacated, nor shall the forfeited bail be reinstated.

14 (e) Nothing in this section shall prevent a court from
15 ordering a defendant to submit to monitoring by a continuous
16 alcohol monitoring device as a condition of release on bail,
17 recognizance, supervised release or sentencing, for violation of
18 section 291E-61 or 291E-61.5 as a first offense, or for
19 violation of any other section, if otherwise permitted by law."



1 SECTION 2. Section 291E-1, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Continuous alcohol monitoring device" means any device or
5 instrument that:

- 6 (1) Is attached to the person;
- 7 (2) Is designed to automatically test the alcohol content
8 in a person by contact with the person's skin at least
9 once per one-half hour regardless of the person's
10 location;
- 11 (3) Detects the presence of alcohol; and
- 12 (4) Detects attempts to tamper with, obstruct, or remove
13 the device."

14 SECTION 3. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

17 SECTION 4. New statutory material is underscored.

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



Report Title:

Honolulu Prosecuting Attorney Package; Continuous Alcohol Monitoring; Driving Under the Influence

Description:

Requires persons charged for operating a vehicle under the influence of an intoxicant or habitually operating a vehicle under the influence of an intoxicant to be fitted with a continuous alcohol monitoring device if the person: (1) has a prior conviction for operating a vehicle under the influence of an intoxicant or habitually operating a vehicle under the influence of an intoxicant within the past five years; or (2) is currently pending criminal investigation or prosecution for one or more prior charges of operating a vehicle under the influence of an intoxicant or habitually operating a vehicle under the influence of an intoxicant. (HB306 HD1)

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