
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 as a result of having
7 consumed alcohol:
8 (1) Who is a repeat intoxicated driver; 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 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) If the device is removed upon being taken into custody
17 by the department of public safety, or for a verified medical
18 emergency, such removal shall not be considered a violation of
19 conditions of release on bail, and the applicable period shall
20 be suspended. The person shall be refitted with a continuous



1 alcohol monitoring device at the earliest possible opportunity,
2 at which time the applicable period shall resume.

3 (d) The device shall be fitted, maintained and monitored
4 by a single vendor statewide. All costs associated with the
5 monitoring device, including administrative and operating costs,
6 shall be paid by the person, except that the vendor shall
7 provide partial financial relief for the fitting and maintenance
8 charges to offenders who apply for such assistance and who are
9 recipients, at the time of license revocation or suspension, of
10 either food stamps under the Supplemental Nutrition Assistance
11 Program, or free services under the Older Americans Act or
12 Developmentally Disabled Assistance and Bill of Rights Act.

13 (e) For purposes of this section, and notwithstanding any
14 law to the contrary, if the person violates any of the
15 conditions of release on bail as specified in subsection (b),
16 the person's bail shall be declared forfeited and bail shall be
17 reset in the same amount or higher. Such judgment shall not be
18 vacated, nor shall the forfeited bail be reinstated.

19 (f) Nothing in this section shall prevent a court from
20 ordering a defendant to submit to monitoring by a continuous
21 alcohol monitoring device as a condition of release on bail,



1 recognizance, supervised release or sentencing, for violation of
2 section 291E-61 or 291E-61.5 as a first offense, or for
3 violation of any other section, if otherwise permitted by law."

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

7 "Continuous alcohol monitoring device" means any device or
8 instrument that:

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

17 SECTION 3. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

20 SECTION 4. New statutory material is underscored.

21 SECTION 5. This Act shall take effect on July 1, 2050.



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) is a repeat intoxicated driver; 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. Establishes a process for certain persons to receive financial relief for the cost of the monitoring devices. Takes effect on 1/7/2050. (SD1)

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