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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       SECTION 1. The legislature finds that there is a need to  
2       amend the definition of "drug" for offenses under chapter 291E,  
3       Hawaii Revised Statutes, involving the use of intoxicants while  
4       operating a vehicle. For example, in order to convict an  
5       offender of the offense of operating a vehicle under the  
6       influence of an intoxicant when the intoxicant is a drug under  
7       section 291E-61(a)(2), Hawaii Revised Statutes, the prosecution  
8       must prove beyond a reasonable doubt that:

9       (1) The person was operating a vehicle; and

10       (2) The person was under the influence of any drug that  
11       impaired the person's ability to operate the vehicle  
12       in a careful and prudent manner.

13       However, because the term "drug" is defined for purposes of  
14       chapter 291E, Hawaii Revised Statutes, as any controlled  
15       substance listed in schedules I through IV of chapter 329,  
16       Hawaii Revised Statutes, it can be difficult for the prosecution  
17       to prove the second prong of the foregoing offense because many



1 drugs like kava and certain muscle relaxants can cause serious  
2 impairment of drivers but are not scheduled as controlled  
3 substances. In addition, there have been recent attempts at the  
4 federal and state levels to remove marijuana and  
5 tetrahydrocannabinols from the schedule of controlled  
6 substances. If these were to succeed, persons found to be  
7 driving while impaired by marijuana could not be prosecuted  
8 under Hawaii's current operating a vehicle under the influence  
9 of an intoxicant statute.

10 The legislature further finds that the process of placing a  
11 drug or substance on the schedule of controlled substances does  
12 not respond quickly enough to emerging drugs. Synthetic drugs  
13 can be manufactured very rapidly and can avoid law enforcement  
14 when they are created by changing the chemical composition of an  
15 existing drug; in this manner, synthetic drugs like "spice" and  
16 "bath salts" evade the scheduling process. In order to quickly  
17 adapt and prosecute offenders using new emerging drugs, law  
18 enforcement should not be forced to rely solely on the  
19 controlled substance schedules for certain offenses.



1       The purpose of this Act is to amend the definition of  
2 "drug" for purposes of operating a vehicle under the influence  
3 of an intoxicant violations.

4       SECTION 2. Section 291E-1, Hawaii Revised Statutes, is  
5 amended by amending the definition of "drug" to read as follows:

6       "Drug" means any controlled substance, as defined and  
7 enumerated in schedules I through IV of chapter 329, ~~[or]~~ its  
8 metabolites~~[-]~~, or anything that impairs a person."

9       SECTION 3. This Act does not affect rights and duties that  
10 matured, penalties that were incurred, and proceedings that were  
11 begun before its effective date.

12       SECTION 4. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14       SECTION 5. This Act shall take effect upon its approval.  
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**Report Title:**

Transportation; Drug; Intoxicants; Impairment

**Description:**

Clarifies the definition of "drug" in chapter 291E, Hawaii Revised Statutes, regarding the use of intoxicants while operating a vehicle. (SD1)

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

