
A BILL FOR AN ACT

RELATING TO INTOXICATING LIQUOR.

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

1 SECTION 1. Section 291E-61, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) A person committing the offense of operating a
4 vehicle under the influence of an intoxicant shall be sentenced
5 without possibility of probation or suspension of sentence as
6 follows:

7 (1) For the first offense, or any offense not preceded
8 within a [~~five-year~~] ten-year period by a conviction
9 for an offense under this section or section
10 291E-4(a):

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

15 (B) One-year revocation of license and privilege to
16 operate a vehicle during the revocation period
17 and installation during the revocation period of



1 an ignition interlock device on any vehicle
2 operated by the person;

3 (C) Any one or more of the following:

4 (i) Seventy-two hours of community service work;

5 (ii) ~~[Not]~~ No less than forty-eight hours and
6 ~~[not]~~ no more than five days of
7 imprisonment; or

8 (iii) A fine of ~~[not]~~ no less than ~~[\$150]~~ \$250 but
9 ~~[not]~~ no more than \$1,000;

10 (D) A surcharge of \$25 to be deposited into the
11 neurotrauma special fund; and

12 (E) A surcharge, if the court so orders, of up to \$25
13 to be deposited into the trauma system special
14 fund;

15 (2) For an offense that occurs within ~~[five]~~ ten years of
16 a prior conviction for an offense under this section
17 or section 291E-4(a):

18 (A) Revocation for ~~[not]~~ no less than ~~[eighteen]~~
19 twenty-four months nor more than ~~[two]~~ three
20 years of license and privilege to operate a
21 vehicle during the revocation period and



1 installation during the revocation period of an
2 ignition interlock device on any vehicle operated
3 by the person;

4 (B) Either one of the following:

5 (i) [~~Not~~] No less than two hundred forty hours
6 of community service work; or

7 (ii) [~~Not~~] No less than five days but [~~not~~] no
8 more than thirty days of imprisonment, of
9 which at least forty-eight hours shall be
10 served consecutively;

11 (C) A fine of [~~not~~] no less than [~~\$500~~] \$1,000 but
12 [~~not~~] no more than [~~\$1,500,~~] \$3,000;

13 (D) A surcharge of \$25 to be deposited into the
14 neurotrauma special fund; and

15 (E) A surcharge of up to \$50, if the court so orders,
16 to be deposited into the trauma system special
17 fund;

18 [~~(3) For an offense that occurs within five years of two~~
19 ~~prior convictions for offenses under this section or~~
20 ~~section 291E-4(a):~~



- 1 ~~(A) A fine of not less than \$500 but not more than~~
- 2 ~~\$2,500;~~
- 3 ~~(B) Revocation for two years of license and privilege~~
- 4 ~~to operate a vehicle during the revocation period~~
- 5 ~~and installation during the revocation period of~~
- 6 ~~an ignition interlock device on any vehicle~~
- 7 ~~operated by the person;~~
- 8 ~~(C) Not less than ten days but not more than thirty~~
- 9 ~~days imprisonment, of which at least forty eight~~
- 10 ~~hours shall be served consecutively;~~
- 11 ~~(D) A surcharge of \$25 to be deposited into the~~
- 12 ~~neurotrauma special fund; and~~
- 13 ~~(E) A surcharge of up to \$50 if the court so orders,~~
- 14 ~~to be deposited into the trauma system special~~
- 15 ~~fund;~~
- 16 ~~(4)]~~ (3) In addition to a sentence imposed under
- 17 paragraphs (1) [~~through (3),~~] and (2), any person
- 18 eighteen years of age or older who is convicted under
- 19 this section and who operated a vehicle with a
- 20 passenger, in or on the vehicle, who was younger than
- 21 fifteen years of age, shall be sentenced to an



1 additional mandatory fine of \$500 and an additional
2 mandatory term of imprisonment of forty-eight hours;
3 provided that the total term of imprisonment for a
4 person convicted under this paragraph shall not exceed
5 the maximum term of imprisonment provided in paragraph
6 (1) [~~7~~] or (2), [~~or (3),~~] as applicable.

7 Notwithstanding paragraphs (1) and (2), the revocation
8 period for a person sentenced under this paragraph
9 shall be [~~not~~] no less than two years; and

10 [~~(5)~~] (4) If the person demonstrates to the court that the
11 person:

12 (A) Does not own or have the use of a vehicle in
13 which the person can install an ignition
14 interlock device during the revocation period; or

15 (B) Is otherwise unable to drive during the
16 revocation period,

17 the person shall be absolutely prohibited from driving during
18 the period of applicable revocation provided in paragraphs (1)
19 to [~~(4)~~] (3); provided that the court shall not issue an
20 ignition interlock permit pursuant to subsection (i) and the
21 person shall be subject to the penalties provided by section



1 291E-62 if the person drives during the applicable revocation
2 period."

3 SECTION 2. Section 291E-61.5, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (b) to read:

6 "(b) For the purposes of this section:

7 (1) "Convicted [~~three~~] two or more times for offenses of
8 operating a vehicle under the influence" means that,
9 at the time of the behavior for which the person is
10 charged under this section, the person had [~~three~~] two
11 or more times within ten years of the instant offense:

12 (A) A judgment on a verdict or a finding of guilty,
13 or a plea of guilty or nolo contendere, for a
14 violation of section 291-4, 291-4.4, or 291-7 as
15 those sections were in effect on December 31,
16 2001, or section 291E-61 or 707-702.5;

17 (B) A judgment on a verdict or a finding of guilty,
18 or a plea of guilty or nolo contendere, for an
19 offense that is comparable to section 291-4,
20 291-4.4, or 291-7 as those sections were in



1 effect on December 31, 2001, or section 291E-61
2 or 707-702.5; or
3 (C) An adjudication of a minor for a law or probation
4 violation that, if committed by an adult, would
5 constitute a violation of section 291-4, 291-4.4,
6 or 291-7 as those sections were in effect on
7 December 31, 2001, or section 291E-61 or
8 707-702.5,
9 that, at the time of the instant offense, had not been
10 expunged by pardon, reversed, or set aside. All
11 convictions that have been expunged by pardon,
12 reversed, or set aside [~~prior to~~] before the instant
13 offense shall not be deemed prior convictions for the
14 purposes of proving that the person is a habitual
15 operator of a vehicle while under the influence of an
16 intoxicant.
17 (2) "Convicted one or more times for offenses of
18 habitually operating a vehicle under the influence"
19 means that, at the time of the behavior for which the
20 person is charged under this section, the person had



1 one or more times within ten years of the instant
2 offense:

3 (A) A judgment on a verdict or a finding of guilty,
4 or a plea of guilty or nolo contendere, for a
5 violation of this section or section 291-4.4 as
6 that section was in effect on December 31, 2001;

7 (B) A judgment on a verdict or a finding of guilty,
8 or a plea of guilty or nolo contendere, for an
9 offense that is comparable to this section or
10 section 291-4.4 as that section was in effect on
11 December 31, 2001; or

12 (C) An adjudication of a minor for a law or probation
13 violation that, if committed by an adult, would
14 constitute a violation of this section or section
15 291-4.4 as that section was in effect on December
16 31, 2001,

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



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

4 (3) "Habitual operator of a vehicle while under the
5 influence of an intoxicant" means that the person:

6 (A) Was convicted [~~three~~] two or more times for
7 offenses of operating a vehicle under the
8 influence; or

9 (B) Was convicted one or more times for offenses of
10 habitually operating a vehicle under the
11 influence."

12 2. By amending subsection (d) to read:

13 "(d) For a conviction under this section, the sentence
14 shall be either:

15 (1) An indeterminate term of imprisonment of five years;
16 or

17 (2) A term of probation of five years, with conditions to
18 include:

19 (A) Mandatory revocation of license and privilege to
20 operate a vehicle for a period [~~not~~] no less than



1 ~~[one year]~~ three years but ~~[not]~~ no more than
2 five years;

3 (B) ~~[Not]~~ No less than ten days imprisonment, of
4 which at least forty-eight hours shall be served
5 consecutively;

6 (C) A fine of no less than \$2,000 but no more than
7 \$5,000;

8 ~~[-(C)]~~ (D) Referral to a certified substance abuse
9 counselor as provided in section 291E-61(d);

10 ~~[-(D)]~~ (E) A surcharge of \$25 to be deposited into the
11 neurotrauma special fund; and

12 ~~[-(E)]~~ (F) May be charged a surcharge of up to \$50 to
13 be deposited into the trauma system special fund
14 if the court so orders.

15 In addition to the foregoing, any vehicle owned and operated by
16 the person committing the offense shall be subject to forfeiture
17 pursuant to chapter 712A~~[7]~~i; provided that the department of
18 transportation shall provide storage for vehicles forfeited
19 under this subsection."

20 SECTION 3. Section 291E-62, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) No person whose license and privilege to operate a
2 vehicle have been revoked, suspended, or otherwise restricted
3 pursuant to this section or to part III or section 291E-61 or
4 291E-61.5, or to part VII or part XIV of chapter 286 or section
5 200-81, 291-4, 291-4.4, 291-4.5, or 291-7 as those provisions
6 were in effect on December 31, 2001, shall operate or assume
7 actual physical control of any vehicle:

8 (1) In violation of any restrictions placed on the
9 person's license;

10 (2) While the person's license or privilege to operate a
11 vehicle remains suspended or revoked;

12 (3) Without installing an ignition interlock device
13 required by this chapter; or

14 (4) With an ignition interlock permit unless the person
15 has the ignition interlock permit [~~and a valid State~~
16 ~~of Hawaii identification card~~] in the person's
17 immediate possession."

18 SECTION 4. (a) The president of the senate and the
19 speaker of the house of representatives shall convene a task
20 force to examine and propose legislation that would allow the
21 courts, under certain circumstances, to prohibit a person



1 convicted of operating a vehicle under the influence of an
2 intoxicant or habitually operating a vehicle under the influence
3 of an intoxicant from purchasing or publicly consuming alcohol
4 for a probation period.

5 (b) The task force shall include:

6 (1) Two members to be appointed by the president of the
7 senate;

8 (2) Two members to be appointed by the speaker of the
9 house of representatives;

10 (3) Two district court judges appointed by the chief
11 justice; and

12 (4) The director of transportation who shall serve as an
13 ex-officio member.

14 The task force may add additional members as it deems necessary.

15 (c) The task force shall submit a report of its findings
16 and recommendations to the legislature no later than twenty days
17 before the convening of the regular session of 2020.

18 SECTION 5. 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.



1 SECTION 6. If any provision of this Act, or the
2 application thereof to any person or circumstance, is held
3 invalid, the invalidity does not affect other provisions or
4 applications of the Act that can be given effect without the
5 invalid provision or application, and to this end the provisions
6 of this Act are severable.

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

9 SECTION 8. This Act shall take effect on July 1, 2019.



Report Title:

Intoxicating Liquor; Operating a Vehicle Under the Influence

Description:

Amends the sentencing requirements for OVUII and HOVUII offenses. Amends the threshold for HOVUII offenses. Requires the President of the Senate and the Speaker of the House of Representatives to convene a task force to examine and propose legislation that would allow the courts, under certain circumstances, to prohibit a person convicted of OVUII or HOVUII from purchasing or publicly consuming alcohol for a probation period. (HB703 CD1)

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

