
A BILL FOR AN ACT

RELATING TO INTOXICATING LIQUOR.

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

1 SECTION 1. Section 281-78, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) At no time under any circumstances shall any licensee
4 or its employee:

5 (1) Sell, serve, or furnish any liquor to, or allow the
6 consumption of any liquor by:

7 (A) Any minor;

8 (B) Any person at the time under the influence of
9 liquor;

10 (C) Any person known to the licensee to be addicted
11 to the excessive use of intoxicating liquor; [~~or~~]

12 (D) Any restricted person; or

13 [~~(D)~~] (E) Any person for consumption in any vehicle
14 that is licensed to travel on public highways;

15 provided that the consumption or sale of liquor to a
16 minor shall not be deemed to be a violation of this

17 subsection if, in making the sale or allowing the



1 consumption of any liquor by a minor, the licensee was
2 misled by the appearance of the minor and the
3 attending circumstances into honestly believing that
4 the minor was of legal age and the licensee acted in
5 good faith; and provided further that it shall be
6 incumbent upon the licensee to prove that the licensee
7 so acted in good faith;

8 (2) Permit any liquor to be consumed on the premises of
9 the licensee or on any premises connected therewith,
10 whether there purchased or not, except as permitted by
11 the terms of its license;

12 (3) Permit any liquor to be sold or served by any person
13 eighteen to twenty years of age except in licensed
14 establishments where selling or serving the
15 intoxicating liquor is part of the minor's employment,
16 and where there is proper supervision of these minor
17 employees to ensure that the minors shall not consume
18 the intoxicating liquor;

19 (4) Permit any liquor to be sold or served by any person
20 below the age of eighteen years upon any licensed
21 premises, except in individually specified licensed



1 establishments found to be otherwise suitable by the
2 liquor commission in which an approved program of job
3 training and employment for dining room waiters and
4 waitresses is being conducted in cooperation with the
5 University of Hawaii, the state community college
6 system, or a federally sponsored personnel development
7 and training program, under arrangements that ensure
8 proper control and supervision of employees;

9 (5) Knowingly permit any person under the influence of
10 liquor or disorderly person to be or remain in or on
11 the licensed premises;

12 (6) Fail to timely prevent or suppress any violent,
13 quarrelsome, disorderly, lewd, immoral, or unlawful
14 conduct of any person on the premises;

15 (7) Sell any draught beer unless upon the faucet, spigot,
16 or outlet wherefrom the beer is drawn there is
17 attached a clear and legible notice, placard, or
18 marker which in the English language indicates and
19 declares the name or brand adopted by the manufacturer
20 of the draught beer, so situated as to be clearly
21 legible for a distance of at least ten feet from the



1 spigot, faucet, or outlet, to a purchaser with normal
2 vision; or

3 (8) Receive from a person, as payment or as a
4 consideration for liquor, any personal or household
5 goods, including clothing and food, or any implements
6 of trade. Any person violating this paragraph shall
7 be guilty of a misdemeanor and upon conviction shall
8 be punished as provided in section 281-102.

9 For purposes of this subsection, "restricted person" has
10 the same meaning as in section 712-1250.5."

11 SECTION 2. Section 281-101.5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§281-101.5 Prohibitions involving minors[+] or restricted**
14 **persons; penalty.** (a) Any adult who provides or purchases
15 liquor for consumption or use by a person under twenty-one years
16 of age or any restricted person shall be guilty of the offense
17 under section 712-1250.5.

18 (b) No minor or restricted person shall consume or
19 purchase liquor and no minor or restricted person shall consume
20 or have liquor in the minor's or restricted person's possession
21 or custody in any public place, public gathering, or public



1 amusement, at any public beach or public park, or in any motor
2 vehicle on a public highway; provided that notwithstanding any
3 other law to the contrary, this subsection shall not apply to:

4 (1) Possession or custody of liquor by a minor or
5 restricted person in the course of delivery, pursuant
6 to the direction of the minor's or restricted person's
7 employer lawfully engaged in business necessitating
8 the delivery;

9 (2) Possession, custody, or consumption of liquor by a
10 minor or restricted person in connection with the
11 minor's or restricted person's authorized
12 participation in religious ceremonies requiring such
13 possession, custody, or consumption; or

14 (3) Any person between the ages of eighteen and twenty,
15 who is participating in a controlled purchase as part
16 of a law enforcement activity or a study authorized by
17 the department of health to determine the level of
18 incidence of liquor sales to minors.

19 (c) No minor or restricted person shall falsify any
20 identification or use any false identification or identification
21 of another person or of a fictitious person for the purpose of



1 buying or attempting to buy liquor or for the purpose of
2 obtaining employment to sell or serve liquor on licensed
3 premises.

4 (d) Any person under age eighteen who violates this
5 section shall be subject to the jurisdiction of the family
6 court. Any restricted person over the age of twenty-one who
7 violates this section or person age eighteen to twenty-one who
8 violates subsection (b) or (c) shall be guilty of a petty
9 misdemeanor. The court shall order that any person under
10 twenty-one years of age found to be in violation of this section
11 shall have, in addition to any other disposition or sentencing
12 provision permitted by law, the person's license to operate a
13 motor vehicle, or the person's ability to obtain a license to
14 operate a motor vehicle, suspended as follows:

15 (1) For licensed drivers, the driver's license shall be
16 suspended for not less than one hundred and eighty
17 days with exceptions to allow, at the discretion of
18 the sentencing court, driving to and from school,
19 school-sponsored activities, and employment;

20 (2) For persons with a provisional license, the
21 provisional license shall be suspended for not less



1 than one hundred and eighty days with exceptions to
2 allow, at the discretion of the sentencing court,
3 driving to and from school, school-sponsored
4 activities, and employment;

5 (3) For persons with an instruction permit, the
6 instruction permit shall be suspended for not less
7 than one hundred and eighty days with exceptions to
8 allow, at the discretion of the sentencing court,
9 driving to and from school, school-sponsored
10 activities, and employment; or

11 (4) For persons not licensed to drive, eligibility to
12 obtain a driver's license, provisional license, or
13 instruction permit shall be suspended until the age of
14 seventeen or for one hundred and eighty days, at the
15 discretion of the court; and

16 (5) Chapter 571 notwithstanding, in any case where a
17 person under the age of eighteen violates this
18 section, the family court judge may suspend the
19 driver's license, provisional license, or instruction
20 permit, or suspend the eligibility to obtain a



1 driver's license, provisional license, or instruction
 2 permit in accordance with this section;
 3 provided that the requirement to provide proof of financial
 4 responsibility pursuant to section 287-20 shall not be based
 5 upon a sentence imposed under paragraphs (1) and (2). In
 6 addition, all persons whether or not licensed, found to be in
 7 violation of this section shall be sentenced to seventy-five
 8 hours of community service work, and an eight to twelve hour
 9 program of alcohol education and counseling the costs of which
 10 shall be borne by the offender or the offender's parent or
 11 guardian.

12 (e) As used in this section [~~,"consume"~~]:

13 "Consume" or "consumption" includes the ingestion of
 14 liquor.

15 "Restricted person" has the same meaning as in section 712-
 16 1250.5."

17 SECTION 3. Section 286-103, Hawaii Revised Statutes, is
 18 amended to read as follows:

19 **"§286-103 Restrictions on driver's license; rules and**
 20 **regulations.** (a) The examiner of drivers may adopt rules and
 21 regulations restricting the use of a driver's license in any



1 manner the examiner of drivers may deem necessary for the safety
2 and welfare of the traveling public and may impose restrictions
3 with respect to the type of equipment or special mechanical
4 control devices required on the motor vehicle operated by the
5 licensee appropriate to the driving ability of the licensee.
6 Any restrictions shall be indicated on the license issued.

7 (b) The examiner of drivers shall adopt rules and
8 regulations restricting the use of a driver's license issued to
9 a person prohibited from purchasing or publicly consuming liquor
10 within the probation period invoked upon license revocation for
11 a violation of section 291E-61 or section 291E-61.5 became
12 effective. A license subject to this subsection shall bear the
13 notation "Liquor Restricted" and shall not be accepted as a
14 valid form of identification for the purchase of liquor. A
15 driver's license that bears the notation "Liquor Restricted"
16 shall expire no later than the date upon which the probation
17 period expires."

18 SECTION 4. Section 286-106, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§286-106 **Expiration of licenses.** Every driver's license
21 issued under this part, except for a provisional license issued



1 under section 286-102.6 which shall expire on the date of the
 2 provisional licensee's nineteenth birthday, whether an original
 3 issuance or a renewal, shall expire on the first birthday of the
 4 licensee occurring not less than eight years after the date of
 5 the issuance of the license, unless sooner revoked or suspended;
 6 provided that:

7 (1) The license shall expire on the first birthday of the
 8 licensee occurring not less than four years after the
 9 date of the issuance if, at the time, the licensee is
 10 twenty-four years of age or younger;

11 (2) The license shall expire on the first birthday of the
 12 licensee occurring not less than two years after the
 13 date of the issuance of the license if, at that time,
 14 the licensee is seventy-two years of age or older;

15 [~~and~~]

16 (3) If the licensee is a legal immigrant, the license
 17 shall expire no later than the licensee's authorized
 18 period of stay in the United States[-]; and

19 (4) A license that bears the notation "Liquor Restricted"
 20 issued to any person prohibited from purchasing or
 21 publicly consuming liquor during a probation period



1 that commences on the date that revocation of the
 2 person's driver's license for violation of section
 3 291E-61 or section 291E-61.5 became effective shall
 4 expire no later than the date of expiration of the
 5 probation period.

6 The examiner of drivers may issue a license for a shorter
 7 period if the licensee has a physical condition or conditions
 8 that the examiner of drivers reasonably believes may impair the
 9 driver's ability to drive."

10 SECTION 5. Section 286-305, Hawaii Revised Statutes, is
 11 amended to read as follows:

12 "**§286-305 Contents and characteristics; form.** (a) Each
 13 identification card issued by the examiner of drivers shall
 14 display a distinguishing number assigned to the cardholder, and
 15 shall display the following inscription:

16 "STATE OF HAWAII IDENTIFICATION CARD"

17 (b) The examiner of drivers, after obtaining the
 18 fingerprint of the applicant as provided in this part and after
 19 obtaining the information required by or pursuant to this part,
 20 shall issue to each applicant an identification card in a form
 21 and with identifying information that the director deems



1 necessary and appropriate, including a notation of veteran
2 status, if desired by the applicant, on the front of the card
3 where applicable; provided that such notation shall not include
4 any designation other than the term "veteran". As used in this
5 subsection, "veteran" means any person who served in any of the
6 uniformed services of the United States and was discharged under
7 conditions other than dishonorable.

8 (c) The identification card shall not display the
9 cardholder's social security number.

10 (d) The identification card shall be designed to prevent
11 its reproduction or alteration without ready detection.

12 (e) The identification card for individuals under twenty-
13 one years of age shall have characteristics prescribed by the
14 examiner distinguishing it from that issued to [a] an individual
15 who is twenty-one years of age or older.

16 (f) An identification card issued to an individual who has
17 been convicted for a violation of section 291E-61 or 291E-61.5
18 and prohibited from purchasing or publicly consuming liquor
19 shall bear the notation "Liquor Restricted". The identification
20 card shall be valid for a probation period, commencing on the
21 date of conviction. The issuance of an identification card



1 pursuant to this subsection shall invalidate any prior
2 identification card issued to the individual, that does not bear
3 the notation required by this subsection, regardless of the date
4 of expiration listed on the identification card. An
5 identification card issued pursuant to this subsection shall not
6 be valid identification for the purchase of liquor."

7 SECTION 6. Section 291E-34, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By amending subsection (e) to read:

10 "(e) The notice shall state that, if the respondent's
11 license and privilege to operate a vehicle is administratively
12 revoked after the review, a decision shall be mailed to the
13 respondent, or to the parent or guardian of the respondent if
14 the respondent is under the age of eighteen, that shall contain,
15 at a minimum, the following information:

16 (1) The reasons why the respondent's license and privilege
17 to operate a vehicle is administratively revoked;

18 (2) That the respondent may request the director, within
19 six days of the date the decision is mailed, to
20 schedule an administrative hearing to review the
21 administrative revocation;



- 1 (3) That, if the respondent's request for an
2 administrative hearing is received by the director
3 within six days of the date the decision was mailed,
4 the hearing shall be scheduled to commence:
- 5 (A) No later than twenty-five days after the date of
6 the issuance of the notice of administrative
7 revocation in the case of an alcohol related
8 offense; and
- 9 (B) No later than thirty-nine days after the date of
10 the issuance of the notice of administrative
11 revocation in the case of a drug related offense;
- 12 (4) The procedure to request an administrative hearing;
- 13 (5) That failure to request an administrative hearing
14 within the time provided shall cause the
15 administrative revocation to take effect for the
16 period and under the conditions established by the
17 director in the decision;
- 18 (6) That the respondent may regain the right to a hearing
19 by requesting the director, within sixty days after
20 the issuance of the notice of administrative
21 revocation, to schedule a hearing;



- 1 (7) That the director shall schedule the hearing to
2 commence no later than thirty days after a request
3 under paragraph (6) is received, but that, except as
4 provided in section 291E-38(j), the temporary permit
5 shall not be extended if the respondent fails to
6 request an administrative hearing within the initial
7 six-day period provided for that purpose;
- 8 (8) That failure to attend the hearing shall cause the
9 administrative revocation to take effect for the
10 period and under the conditions indicated;
- 11 (9) The duration of the administrative revocation and
12 other conditions that may be imposed, including:
13 referral to the driver's education program for an
14 assessment of the respondent's substance abuse or
15 dependence and the need for treatment; [~~and~~]
- 16 (10) That the respondent shall obtain an ignition interlock
17 permit in order to operate a vehicle during the
18 revocation period if the respondent had a valid
19 license at the time of the arrest[~~-~~]; and
- 20 (11) That the respondent shall be prohibited from
21 purchasing or publicly consuming liquor for a



1 probation period commencing on the date that the
2 administrative revocation of the respondent's license
3 becomes effective."

4 2. By amending subsection (h) to read:

5 "(h) The notice shall state that, if the administrative
6 revocation is sustained at the hearing, a written decision shall
7 be mailed to the respondent, or to the parent or guardian of the
8 respondent if the respondent is under the age of eighteen, that
9 shall contain, at a minimum, the following information:

- 10 (1) The effective date of the administrative revocation;
- 11 (2) The duration of the administrative revocation;
- 12 (3) Other conditions that may be imposed by law, including
13 the use of an ignition interlock device[+] and a
14 probation period prohibiting the purchase or public
15 consumption of liquor; and
- 16 (4) The right to obtain judicial review."

17 SECTION 7. Section 291E-41, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§291E-41 Effective date, conditions, and period of**
20 **administrative revocation; criteria.** (a) Unless an
21 administrative revocation is reversed or the temporary permit is



1 extended by the director, administrative revocation shall become
2 effective on the day specified in the notice of administrative
3 revocation. Except as provided in section 291E-44.5, no license
4 and privilege to operate a vehicle shall be restored under any
5 circumstances during the administrative revocation period. Upon
6 completion of the administrative revocation period, the
7 respondent may reapply and be reissued a license pursuant to
8 section 291E-45.

9 (b) Except as provided in paragraph (5) and in section
10 291E-44.5, the respondent shall keep an ignition interlock
11 device installed and operating in any vehicle the respondent
12 operates during the revocation period. Except as provided in
13 section 291E-5, installation and maintenance of the ignition
14 interlock device shall be at the respondent's expense. The
15 periods of administrative revocation, with respect to a license
16 and privilege to operate a vehicle, that shall be imposed under
17 this part are as follows:

18 (1) A one year revocation of license and privilege to
19 operate a vehicle, if the respondent's record shows no
20 prior alcohol enforcement contact or drug enforcement



- 1 contact during the five years preceding the date the
2 notice of administrative revocation was issued;
- 3 (2) An eighteen month revocation of license and privilege
4 to operate a vehicle, if the respondent's record shows
5 one prior alcohol enforcement contact or drug
6 enforcement contact during the five years preceding
7 the date the notice of administrative revocation was
8 issued;
- 9 (3) A two-year revocation of license and privilege to
10 operate a vehicle, if the respondent's record shows
11 two prior alcohol enforcement contacts or drug
12 enforcement contacts during the five years preceding
13 the date the notice of administrative revocation was
14 issued;
- 15 (4) A minimum of five years up to a maximum of ten years
16 revocation of license and privilege to operate a
17 vehicle, if the respondent's record shows three or
18 more prior alcohol enforcement contacts or drug
19 enforcement contacts during the ten years preceding
20 the date the notice of administrative revocation was
21 issued;



- 1 (5) For respondents under the age of eighteen years who
2 were arrested for a violation of section 291E-61 or
3 291E-61.5, revocation of license and privilege to
4 operate a vehicle for the appropriate revocation
5 period provided in paragraphs (1) to (4) or in
6 subsection (c); provided that the respondent shall be
7 prohibited from driving during the period preceding
8 the respondent's eighteenth birthday and shall
9 thereafter be subject to the ignition interlock
10 requirement of this subsection for the balance of the
11 revocation period; or
- 12 (6) For respondents, other than those excepted pursuant to
13 section 291E-44.5(c), who do not install an ignition
14 interlock device in any vehicle the respondent
15 operates during the revocation period, revocation of
16 license and privilege to operate a vehicle for the
17 period of revocation provided in paragraphs (1) to (5)
18 or in subsection (c); provided that:
- 19 (A) The respondent shall be absolutely prohibited
20 from driving during the revocation period and
21 subject to the penalties provided by section



1 291E-62 if the respondent drives during the
2 revocation period; and
3 (B) The director shall not issue an ignition
4 interlock permit to the respondent pursuant to
5 section 291E-44.5;
6 provided that when more than one administrative revocation,
7 suspension, or conviction arises out of the same arrest, it
8 shall be counted as only one prior alcohol enforcement contact
9 or drug enforcement contact, whichever revocation, suspension,
10 or conviction occurs later.
11 (c) If a respondent has refused to be tested after being
12 informed:
13 (1) That the person may refuse to submit to testing in
14 compliance with section 291E-11; and
15 (2) Of the sanctions of this part and then asked if the
16 person still refuses to submit to a breath, blood, or
17 urine test, in compliance with the requirements of
18 section 291E-15,
19 the revocation imposed under subsection (b)(1), (2), (3), or (4)
20 shall be for a period of two years, three years, four years, or
21 ten years, respectively.



1 (d) Whenever a license and privilege to operate a vehicle
2 is administratively revoked under this part, the respondent
3 shall be referred to the driver's education program for an
4 assessment, by a certified substance abuse counselor, of the
5 respondent's substance abuse or dependence and the need for
6 treatment. The counselor shall submit a report with
7 recommendations to the director. If the counselor's assessment
8 establishes that the extent of the respondent's substance abuse
9 or dependence warrants treatment, the director shall so order.
10 All costs for assessment and treatment shall be paid by the
11 respondent.

12 (e) Whenever a license and privilege to operate a vehicle
13 is administratively revoked under this part, the respondent
14 shall be prohibited from purchasing or publicly consuming liquor
15 for a probation period commencing on the date the administrative
16 revocation becomes effective. Any driver's license,
17 identification card, ignition interlock permit, or special
18 permit issued by a court pursuant to section 291E-61 or the
19 director pursuant to section 291E-44.5 to the respondent during
20 the probation period authorizing the respondent to operate a
21 vehicle owned by the respondent's employer shall bear the



1 notation "Liquor Restricted" and shall not be accepted as a
2 valid form of identification for the purchase of liquor.

3 [~~e~~] (f) Alcohol and drug enforcement contacts that
4 occurred prior to January 1, 2002, shall be counted in
5 determining the administrative revocation period.

6 [~~f~~] (g) The requirement to provide proof of financial
7 responsibility pursuant to section 287-20 shall not be based
8 upon a revocation under subsection (b)(1)."

9 SECTION 8. Section 291E-44.5, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending subsection (a) to read:

12 "(a) Except as provided in subsection (b), upon proof that
13 the respondent has installed an ignition interlock device in any
14 vehicle the respondent operates and obtained motor vehicle
15 insurance or self-insurance that complies with the requirements
16 of section 431:10C-104 or 431:10C-105, the director shall issue
17 an ignition interlock permit that will allow the respondent to
18 drive a vehicle equipped with an ignition interlock device
19 during the revocation period. An ignition interlock permit
20 shall bear the notation "Liquor Restricted" and shall not be



1 accepted as a valid form of identification for the purchase of
2 liquor."

3 2. By amending subsection (c) to read:

4 "(c) Except as provided in subsection (b), the director
5 may issue a separate permit authorizing a respondent to operate
6 a vehicle owned by the respondent's employer during the period
7 of revocation without installation of an ignition interlock
8 device if the respondent is gainfully employed in a position
9 that requires driving and the respondent will be discharged if
10 prohibited from driving a vehicle not equipped with an ignition
11 interlock device. A separate permit issued pursuant to this
12 subsection shall bear the notation "Liquor Restricted" and shall
13 not be accepted as a valid form of identification for the
14 purchase of liquor."

15 3. By amending subsection (e) to read:

16 "(e) A permit issued pursuant to subsection (c) shall
17 include restrictions allowing the respondent to drive:

18 (1) Only during specified hours of employment, not to
19 exceed twelve hours per day, or the period of the
20 specified assigned hours of work, and only for
21 activities solely within the scope of the employment;



- 1 (2) Only the vehicles specified; and
- 2 (3) Only if the permit is kept in the respondent's
- 3 possession while operating the employer's vehicle.

4 A permit issued pursuant to subsection (c) shall bear the
 5 notation "Liquor Restricted" and shall not be accepted as a
 6 valid form of identification for the purchase of liquor.

7 In addition, the director may impose other appropriate
 8 restrictions."

9 SECTION 9. Section 291E-45, Hawaii Revised Statutes, is
 10 amended by amending subsection (a) to read as follows:

11 "(a) To be eligible for relicensing or renewing the
 12 privilege to operate a vessel after a period of administrative
 13 revocation has expired, the person shall:

- 14 (1) Submit proof to the director of compliance with all
- 15 conditions imposed by the director;
- 16 (2) Obtain a certified statement from the director
- 17 indicating eligibility for relicensing and for
- 18 renewing the privilege to operate a vessel;
- 19 (3) Present the certified statement to the appropriate
- 20 licensing official or to the department of land and
- 21 natural resources, as applicable; and



1 (4) Successfully complete each requirement, including
2 payment of all applicable fees, for:

3 (A) Obtaining a new license in this State, pursuant
4 to chapter 286; or

5 (B) Renewing the privilege to operate a vessel, as
6 may be provided in chapter 200 or rules adopted
7 by the department of land and natural resources
8 pursuant to section 200-24.

9 Any license issued or renewed pursuant to this subsection
10 during the probation period that commences on the date the
11 administrative revocation of the person's license became
12 effective shall bear the notation "Liquor Restricted" and shall
13 not be accepted as a valid form of identification for the
14 purchase of liquor. A license that bears the notation "Liquor
15 Restricted" shall expire on the date upon which the probation
16 period expires."

17 SECTION 10. Section 291E-61, Hawaii Revised Statutes, is
18 amended as follows:

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

20 "(b) A person committing the offense of operating a
21 vehicle under the influence of an intoxicant shall be sentenced



1 without possibility of probation or suspension of sentence as
2 follows:

3 (1) For the first offense, or any offense not preceded
4 within a [~~five-year~~] ten-year period by a conviction
5 for an offense under this section or section 291E-
6 4(a):

7 (A) A fourteen-hour minimum substance abuse
8 rehabilitation program, including education and
9 counseling, or other comparable program deemed
10 appropriate by the court;

11 (B) One-year revocation of license and privilege to
12 operate a vehicle during the revocation period
13 and installation during the revocation period of
14 an ignition interlock device on any vehicle
15 operated by the person;

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

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

18 (ii) Not less than forty-eight hours and not more
19 than five days of imprisonment; or

20 (iii) A fine of not less than [~~\$150~~] \$250 but not
21 more than \$1,000;



- 1 (D) A surcharge of \$25 to be deposited into the
- 2 neurotrauma special fund; [~~and~~]
- 3 (E) A surcharge, if the court so orders, of up to \$25
- 4 to be deposited into the trauma system special
- 5 fund; and
- 6 (F) A probation period, commencing on the effective
- 7 date of the license revocation period under
- 8 subparagraph (B), prohibiting the purchase or
- 9 public consumption of liquor by the person, if
- 10 deemed appropriate by the court;
- 11 (2) For an offense that occurs within [~~five~~] ten years of
- 12 a prior conviction for an offense under this section
- 13 or section 291E-4(a):
- 14 (A) Revocation for not less than [~~eighteen~~] twenty-
- 15 four months nor more than [~~two~~] three years of
- 16 license and privilege to operate a vehicle during
- 17 the revocation period and installation during the
- 18 revocation period of an ignition interlock device
- 19 on any vehicle operated by the person;
- 20 (B) Either one of the following:

- 1 (i) Not less than two hundred forty hours of
- 2 community service work; or
- 3 (ii) Not less than five days but not more than
- 4 thirty days of imprisonment, of which at
- 5 least forty-eight hours shall be served
- 6 consecutively;
- 7 (C) A fine of not less than [~~\$500~~] \$1,000 but not
- 8 more than [~~\$1,500;~~] \$3,000;
- 9 (D) A surcharge of \$25 to be deposited into the
- 10 neurotrauma special fund; [~~and~~]
- 11 (E) A surcharge of up to \$50 if the court so orders,
- 12 to be deposited into the trauma system special
- 13 fund; and
- 14 (F) A probation period, commencing on the effective
- 15 date of the license revocation period under
- 16 subparagraph (A), prohibiting the purchase or
- 17 public consumption of liquor by the person, if
- 18 deemed appropriate by the court;
- 19 [~~3~~] ~~For an offense that occurs within five years of two~~
- 20 ~~prior convictions for offenses under this section or~~
- 21 ~~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 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 2. By amending subsection (d) to read:

4 "(d) Except as provided in subsection (c), the court may
5 issue a separate permit authorizing a defendant to operate a
6 vehicle owned by the defendant's employer during the period of
7 revocation without installation of an ignition interlock device
8 if the defendant is gainfully employed in a position that
9 requires driving and the defendant will be discharged if
10 prohibited from driving a vehicle not equipped with an ignition
11 interlock device. Any separate permit issued pursuant to this
12 subsection to a person prohibited from purchasing or publicly
13 consuming liquor during the probation period that commences on
14 the effective date of the administrative revocation of the
15 person's license shall bear the notation "Liquor Restricted" and
16 shall not be accepted as a valid form of identification for the
17 purchase of liquor. A separate permit that bears the notation
18 "Liquor Restricted" shall expire no later than the date upon
19 which the probation period expires."

20 3. By amending subsection (j) to read:



1 "(j) Notwithstanding any other law to the contrary,
2 whenever a court revokes a person's driver's license pursuant to
3 this section, the examiner of drivers shall not grant to the
4 person a new driver's license until the expiration of the period
5 of revocation determined by the court. After the period of
6 revocation is completed, the person may apply for and the
7 examiner of drivers may grant to the person a new driver's
8 license. Any new driver's license granted pursuant to this
9 subsection to a person prohibited from purchasing or publicly
10 consuming liquor during the probation period that commences on
11 the effective date of the administrative revocation of the
12 person's license shall bear the notation "Liquor Restricted" and
13 shall not be accepted as a valid form of identification for the
14 purchase of liquor. A driver's license that bears the notation
15 "Liquor Restricted" shall expire no later than the date upon
16 which the probation period expires."

17 SECTION 11. Section 291E-61.5, Hawaii Revised Statutes, is
18 amended as follows:

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

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



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

7 (A) A judgment on a verdict or a finding of guilty,
8 or a plea of guilty or nolo contendere, for a
9 violation of section 291-4, 291-4.4, or 291-7 as
10 those sections were in effect on December 31,
11 2001, or section 291E-61 or 707-702.5;

12 (B) A judgment on a verdict or a finding of guilty,
13 or a plea of guilty or nolo contendere, for an
14 offense that is comparable to section 291-4, 291-
15 4.4, or 291-7 as those sections were in effect on
16 December 31, 2001, or section 291E-61 or 707-
17 702.5; or

18 (C) An adjudication of a minor for a law or probation
19 violation that, if committed by an adult, would
20 constitute a violation of section 291-4, 291-4.4,
21 or 291-7 as those sections were in effect on



1 December 31, 2001, or section 291E-61 or 707-
2 702.5,
3 that, at the time of the instant offense, had not been
4 expunged by pardon, reversed, or set aside. All
5 convictions that have been expunged by pardon,
6 reversed, or set aside prior to the instant offense
7 shall not be deemed prior convictions for the purposes
8 of proving that the person is a habitual operator of a
9 vehicle while under the influence of an intoxicant.

10 (2) "Convicted one or more times for offenses of
11 habitually operating a vehicle under the influence"
12 means that, at the time of the behavior for which the
13 person is charged under this section, the person had
14 one or more times [~~within ten years of the instant~~
15 ~~offense~~]:

16 (A) A judgment on a verdict or a finding of guilty,
17 or a plea of guilty or nolo contendere, for a
18 violation of this section or section 291-4.4 as
19 that section was in effect on December 31, 2001;

20 (B) A judgment on a verdict or a finding of guilty,
21 or a plea of guilty or nolo contendere, for an



1 offense that is comparable to this section or
 2 section 291-4.4 as that section was in effect on
 3 December 31, 2001; or

4 (C) An adjudication of a minor for a law or probation
 5 violation that, if committed by an adult, would
 6 constitute a violation of this section or section
 7 291-4.4 as that section was in effect on December
 8 31, 2001,

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 the instant offense
 13 shall not be deemed prior convictions for the purposes
 14 of proving the person's status as a habitual operator
 15 of a vehicle while under the influence of an
 16 intoxicant.

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

19 (A) Was convicted [~~three~~] two or more times for
 20 offenses of operating a vehicle under the
 21 influence; or



1 (B) Was convicted one or more times for offenses of
2 habitually operating a vehicle under the
3 influence."

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

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

7 (1) An indeterminate term of imprisonment of five years;
8 or

9 (2) A term of probation of five years, with conditions to
10 include:

11 (A) Mandatory revocation of license and privilege to
12 operate a vehicle for a period not less than [~~one~~
13 ~~year~~] three years but not more than five years;

14 (B) Not less than ten days imprisonment, of which at
15 least forty-eight hours shall be served
16 consecutively;

17 (C) A fine of not less than \$2,000 but not more than
18 \$5,000;

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



1 [~~(D)~~] (E) A surcharge of \$25 to be deposited into the
2 neurotrauma special fund; and
3 [~~(E)~~] (F) May be charged a surcharge of up to \$50 to be
4 deposited into the trauma system special fund if
5 the court so orders.

6 In addition to the foregoing, any vehicle owned and operated by
7 the person committing the offense shall be subject to forfeiture
8 pursuant to chapter 712A, provided that the department of
9 transportation shall provide storage for vehicles forfeited
10 under this subsection. In addition to all other penalties
11 provided, any person convicted under this section shall be
12 prohibited, for a probation period commencing on the effective
13 date of the license revocation period under subparagraph (A),
14 from purchasing or publicly consuming liquor, if deemed
15 appropriate by the court."

16 3. By amending subsection (f) to read:

17 "(f) Notwithstanding any other law to the contrary,
18 whenever a court revokes a person's driver's license pursuant to
19 this section, the examiner of drivers shall not grant to the
20 person a new driver's license until expiration of the period of
21 revocation determined by the court. After the period of



1 revocation is complete, the person may apply for and the
2 examiner of drivers may grant to the person a new driver's
3 license. Any new driver's license granted pursuant to this
4 subsection to a person prohibited from purchasing or publicly
5 consuming liquor during the probation period that commences on
6 the effective date of the administrative revocation of the
7 person's license shall bear the notation "Liquor Restricted" and
8 shall not be accepted as a valid form of identification for the
9 purchase of liquor. A driver's license that bears the notation
10 "Liquor Restricted" shall expire no later than the date upon
11 which the probation period expires."

12 SECTION 12. Section 291E-61.6, Hawaii Revised Statutes, is
13 amended as follows:

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

15 "(b) Any person under subsection (a) may file a petition
16 in the district court for permission to apply for an ignition
17 interlock instruction permit that will allow the person to take
18 the driving demonstration portion of the driver's license
19 examination. The petition shall be filed with the clerk of the
20 district court in the district in which the arrest occurred and



1 shall be accompanied by the required filing fee for civil
2 actions. The petition shall include the following:

3 (1) A certified court abstract establishing that other
4 than the instant offense, the petitioner has no
5 pending traffic matters, outstanding fines,
6 outstanding court costs, and outstanding restitution;

7 (2) A certified statement from the director establishing
8 that the petitioner has complied with all
9 requirements, including payment of applicable fees,
10 undergone substance abuse assessment and treatment,
11 and surrendered motor vehicle registration and vehicle
12 number plates, if applicable; and

13 (3) A proposed order.

14 In determining whether the petitioner may be granted an ignition
15 interlock instruction permit, the district court shall consider
16 whether the requirements of paragraphs (1) through (3) are met
17 and may also consider any other factors, including but not
18 limited to the petitioner's criminal and traffic record after
19 receiving a lifetime license revocation, and based on the
20 foregoing, the district court shall determine whether an order
21 allowing the petitioner to apply to the director for an ignition



1 interlock instruction permit and requiring the director to
2 remove any stopper placed on the petitioner's motor vehicle
3 registration files pursuant to part III of chapter 291E, as
4 applicable, shall be issued; provided that the petitioner
5 complies with applicable driver licensing requirements under
6 part VI of chapter 286, and proof of financial responsibility
7 under chapter 287. Upon submission of the order to the
8 director, the director shall remove any stopper placed on the
9 person's motor vehicle registration files and issue a certified
10 statement indicating eligibility for an ignition interlock
11 instruction permit.

12 Any ignition interlock instruction permit issued pursuant
13 to this subsection to a person prohibited from purchasing or
14 publicly consuming liquor during the probation period that
15 commences on the effective date of the administrative revocation
16 of the person's license shall bear the notation "Liquor
17 Restricted" and shall not be accepted as a valid form of
18 identification for the purchase of liquor. An ignition
19 interlock instruction permit that bears the notation "Liquor
20 Restricted" shall expire no later than the date upon which the
21 probation period expires."



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

2 "(d) Upon showing the ignition interlock instruction
3 permit to the examiner of drivers, an applicant may take the
4 driving demonstration portion of the driver's license
5 examination in accordance with section 286-108. Upon successful
6 completion of the driving demonstration portion of the driver's
7 license examination, an applicant may apply to the director for
8 an ignition interlock permit pursuant to section 291E-44.5. If
9 granted, the ignition interlock permit shall expire as provided
10 in this section and section 286-106 or upon the end of the
11 revocation period, whichever occurs first.

12 Any ignition interlock permit issued pursuant to this
13 subsection to a person prohibited from purchasing or publicly
14 consuming liquor during the probation period that commences on
15 the effective date of the administrative revocation of the
16 person's license shall bear the notation "Liquor Restricted" and
17 shall not be accepted as a valid form of identification for the
18 purchase of liquor. An ignition interlock permit that bears the
19 notation "Liquor Restricted" shall expire no later than the date
20 upon which the probation period expires."



1 SECTION 13. Section 712-1250.5, Hawaii Revised Statutes,
2 is amended to read as follows:

3 "§712-1250.5 Promoting intoxicating liquor to a person
4 under the age of twenty-one[-] or a restricted person. (1) A
5 person, including any licensee as defined in section 281-1,
6 commits the offense of promoting intoxicating liquor to a person
7 under the age of twenty-one or a restricted person if the person
8 recklessly:

9 (a) Sells or offers for sale, influences the sale, serves,
10 delivers, or gives to a person intoxicating liquor,
11 and the person receiving the intoxicating liquor is a
12 person under the age of twenty-one[-] or a restricted
13 person; or

14 (b) Permits a person to possess intoxicating liquor while
15 on property under [~~his~~] the person's control, and the
16 person possessing the intoxicating liquor is a person
17 under the age of twenty-one[-] or a restricted person.

18 (2) It is a defense to a prosecution for promoting
19 intoxicating liquor to a person under the age of twenty-one or a
20 restricted person that:



- 1 (a) The intoxicating liquor provided to the person under
2 the age of twenty-one or restricted person was an
3 ingredient in a medicine prescribed by a licensed
4 physician for medical treatment of the person under
5 the age of twenty-one[+] or restricted person;
- 6 (b) The intoxicating liquor was provided to the person
7 under the age of twenty-one or restricted person as
8 part of a ceremony of a recognized religion;
- 9 (c) The defendant provided the intoxicating liquor to the
10 person under the age of twenty-one or restricted
11 person with the belief, which was reasonable under the
12 circumstances, that the person under the age of
13 twenty-one had attained the age of twenty-one[+] or
14 was not a restricted person;
- 15 (d) The defendant provided the intoxicating liquor to the
16 person under the age of twenty-one with the express
17 consent of the parent or legal guardian and with the
18 belief, which was reasonable under the circumstances,
19 that the person under the age of twenty-one would not
20 consume any portion of the substance;



1 (e) The defendant provided the intoxicating liquor to the
2 person under the age of twenty-one with the express
3 consent of the parent or legal guardian and with the
4 belief, which was reasonable under the circumstances,
5 that the person under the age of twenty-one would
6 consume the substance only in the presence of the
7 parent or legal guardian; or

8 (f) The intoxicating liquor was possessed by the person
9 under the age of twenty-one or restricted person to be
10 sold or served as allowed by law.

11 (3) The fact that a person engaged in the conduct
12 specified by this section is prima facie evidence that the
13 person engaged in that conduct with knowledge of the character,
14 nature, and quantity of the intoxicating liquor possessed,
15 distributed, or sold.

16 The fact that the defendant distributed or sold
17 intoxicating liquor to a person under the age of twenty-one or a
18 restricted person is prima facie evidence that the defendant
19 knew the transferee was a person under the age of twenty-one[7]
20 or a restricted person except as provided in subsection (2)(c).



1 (4) Promoting intoxicating liquor to a person under the
2 age of twenty-one or a restricted person is a misdemeanor.

3 (5) For purposes of this section, "restricted person"
4 means a person who holds any driver's license, identification
5 card, ignition interlock permit, or special permit that bears
6 the notation "Liquor Restricted" due to conviction or
7 administrative license revocation for violation of section 291E-
8 61 or section 291E-61.5."

9 SECTION 14. Section 712-1252, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§712-1252 Knowledge of character, nature, or quantity of**
12 **substance, or character or age of transferee; prima facie**
13 **evidence.** (1) The fact that a person engaged in the conduct
14 specified by any section in this part is prima facie evidence
15 that the person engaged in that conduct with knowledge of the
16 character, nature, and quantity of the dangerous drug, harmful
17 drug, detrimental drug, or intoxicating compounds possessed,
18 distributed, or sold.

19 (2) The fact that the defendant distributed or sold a
20 dangerous drug, harmful drug, detrimental drug, or intoxicating
21 compound to a minor or a restricted person is prima facie



1 evidence that the defendant knew the transferee to be a minor[→]
2 or a restricted person.

3 (3) For purposes of this section, "restricted person" has
4 the same meaning as in section 712-1250.5."

5 SECTION 15. This Act does not affect rights and duties
6 that matured, penalties that were incurred, and proceedings that
7 were begun before its effective date.

8 SECTION 16. If any provision of this Act, or the
9 application thereof to any person or circumstance, is held
10 invalid, the invalidity does not affect other provisions or
11 applications of the Act that can be given effect without the
12 invalid provision or application, and to this end the provisions
13 of this Act are severable.

14 SECTION 17. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 18. This Act shall take effect on January 28,
17 2081.



Report Title:

Intoxicating Liquor; Operating a Vehicle Under the Influence

Description:

Prohibits any person convicted of Operating a Vehicle Under the Influence of an Intoxicant (OVUII) or Habitually Operating a Vehicle Under the Influence of an Intoxicant (HOVUII) from purchasing or publicly consuming alcohol for a probation period of following sentencing or administrative license revocation. Amends the sentencing requirements for OVUII and HOVUII offenses. Amends the threshold for HOVUII offenses. (HB703 HD1)

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