
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 restricting
8 the use of a driver's license issued to a person within the
9 three-year period that commences on the date that license
10 revocation for a violation of section 291E-61 or section 291E-
11 61.5 became effective. A license subject to this subsection
12 shall bear the notation "Liquor Restricted" and shall not be
13 accepted as a valid form of identification for the purchase of
14 liquor. A driver's license that bears the notation "Liquor
15 Restricted" shall expire no later than the date upon which the
16 three-year period expires."

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

19 **"§286-106 Expiration of licenses.** Every driver's license
20 issued under this part, except for a provisional license issued
21 under section 286-102.6 which shall expire on the date of the



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

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

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

14 [~~and~~]

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

18 (4) A license that bears the notation "Liquor Restricted"
19 issued to any person during the three-year period that
20 commences on the date that revocation of the person's
21 driver's license for violation of section 291E-61 or



1 section 291E-61.5 became effective shall expire no
2 later than the date of expiration of the three-year
3 period.

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

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

10 "**§286-305 Contents and characteristics; form.** (a) Each
11 identification card issued by the examiner of drivers shall
12 display a distinguishing number assigned to the cardholder, and
13 shall display the following inscription:

14 "STATE OF HAWAII IDENTIFICATION CARD"

15 (b) The examiner of drivers, after obtaining the
16 fingerprint of the applicant as provided in this part and after
17 obtaining the information required by or pursuant to this part,
18 shall issue to each applicant an identification card in a form
19 and with identifying information that the director deems
20 necessary and appropriate, including a notation of veteran
21 status, if desired by the applicant, on the front of the card



1 where applicable; provided that such notation shall not include
2 any designation other than the term "veteran". As used in this
3 subsection, "veteran" means any person who served in any of the
4 uniformed services of the United States and was discharged under
5 conditions other than dishonorable.

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

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

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

14 (f) An identification card issued to an individual who has
15 been convicted for a violation of section 291E-61 or 291E-61.5
16 shall bear the notation "Liquor Restricted". The identification
17 card shall be valid for a period of three years, commencing on
18 the date of conviction. The issuance of an identification card
19 pursuant to this subsection shall invalidate any prior
20 identification card issued to the individual, that does not bear
21 the notation required by this subsection, regardless of the date



1 of expiration listed on the identification card. An
2 identification card issued pursuant to this subsection shall not
3 be valid identification for the purchase of liquor."

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

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

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

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

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

19 (3) That, if the respondent's request for an
20 administrative hearing is received by the director



1 within six days of the date the decision was mailed,
2 the hearing shall be scheduled to commence:

3 (A) No later than twenty-five days after the date of
4 the issuance of the notice of administrative
5 revocation in the case of an alcohol related
6 offense; and

7 (B) No later than thirty-nine days after the date of
8 the issuance of the notice of administrative
9 revocation in the case of a drug related offense;

10 (4) The procedure to request an administrative hearing;

11 (5) That failure to request an administrative hearing
12 within the time provided shall cause the
13 administrative revocation to take effect for the
14 period and under the conditions established by the
15 director in the decision;

16 (6) That the respondent may regain the right to a hearing
17 by requesting the director, within sixty days after
18 the issuance of the notice of administrative
19 revocation, to schedule a hearing;

20 (7) That the director shall schedule the hearing to
21 commence no later than thirty days after a request



1 under paragraph (6) is received, but that, except as
2 provided in section 291E-38(j), the temporary permit
3 shall not be extended if the respondent fails to
4 request an administrative hearing within the initial
5 six-day period provided for that purpose;

6 (8) That failure to attend the hearing shall cause the
7 administrative revocation to take effect for the
8 period and under the conditions indicated;

9 (9) The duration of the administrative revocation and
10 other conditions that may be imposed, including:
11 referral to the driver's education program for an
12 assessment of the respondent's substance abuse or
13 dependence and the need for treatment; ~~and~~

14 (10) That the respondent shall obtain an ignition interlock
15 permit in order to operate a vehicle during the
16 revocation period if the respondent had a valid
17 license at the time of the arrest~~[-]~~; and

18 (11) That the respondent shall be prohibited from
19 purchasing or publicly consuming liquor for a period
20 of three years, commencing on the date that the



1 administrative revocation of the respondent's license
2 becomes effective."

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

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

9 (1) The effective date of the administrative revocation;

10 (2) The duration of the administrative revocation;

11 (3) Other conditions that may be imposed by law, including
12 the use of an ignition interlock device[+] and a
13 three-year prohibition on the purchase or public
14 consumption of liquor; and

15 (4) The right to obtain judicial review."

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

18 "**§291E-41 Effective date, conditions, and period of**

19 **administrative revocation; criteria.** (a) Unless an

20 administrative revocation is reversed or the temporary permit is
21 extended by the director, administrative revocation shall become



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

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

17 (1) A one year revocation of license and privilege to
18 operate a vehicle, if the respondent's record shows no
19 prior alcohol enforcement contact or drug enforcement
20 contact during the five years preceding the date the
21 notice of administrative revocation was issued;



- 1 (2) An eighteen month revocation of license and privilege
2 to operate a vehicle, if the respondent's record shows
3 one prior alcohol enforcement contact or drug
4 enforcement contact during the five years preceding
5 the date the notice of administrative revocation was
6 issued;
- 7 (3) A two-year revocation of license and privilege to
8 operate a vehicle, if the respondent's record shows
9 two prior alcohol enforcement contacts or drug
10 enforcement contacts during the five years preceding
11 the date the notice of administrative revocation was
12 issued;
- 13 (4) A minimum of five years up to a maximum of ten years
14 revocation of license and privilege to operate a
15 vehicle, if the respondent's record shows three or
16 more prior alcohol enforcement contacts or drug
17 enforcement contacts during the ten years preceding
18 the date the notice of administrative revocation was
19 issued;
- 20 (5) For respondents under the age of eighteen years who
21 were arrested for a violation of section 291E-61 or



1 291E-61.5, revocation of license and privilege to
2 operate a vehicle for the appropriate revocation
3 period provided in paragraphs (1) to (4) or in
4 subsection (c); provided that the respondent shall be
5 prohibited from driving during the period preceding
6 the respondent's eighteenth birthday and shall
7 thereafter be subject to the ignition interlock
8 requirement of this subsection for the balance of the
9 revocation period; or

10 (6) For respondents, other than those excepted pursuant to
11 section 291E-44.5(c), who do not install an ignition
12 interlock device in any vehicle the respondent
13 operates during the revocation period, revocation of
14 license and privilege to operate a vehicle for the
15 period of revocation provided in paragraphs (1) to (5)
16 or in subsection (c); provided that:

17 (A) The respondent shall be absolutely prohibited
18 from driving during the revocation period and
19 subject to the penalties provided by section
20 291E-62 if the respondent drives during the
21 revocation period; and



1 (B) The director shall not issue an ignition
2 interlock permit to the respondent pursuant to
3 section 291E-44.5;

4 provided that when more than one administrative revocation,
5 suspension, or conviction arises out of the same arrest, it
6 shall be counted as only one prior alcohol enforcement contact
7 or drug enforcement contact, whichever revocation, suspension,
8 or conviction occurs later.

9 (c) If a respondent has refused to be tested after being
10 informed:

11 (1) That the person may refuse to submit to testing in
12 compliance with section 291E-11; and

13 (2) Of the sanctions of this part and then asked if the
14 person still refuses to submit to a breath, blood, or
15 urine test, in compliance with the requirements of
16 section 291E-15,

17 the revocation imposed under subsection (b) (1), (2), (3), or (4)
18 shall be for a period of two years, three years, four years, or
19 ten years, respectively.

20 (d) Whenever a license and privilege to operate a vehicle
21 is administratively revoked under this part, the respondent



1 shall be referred to the driver's education program for an
2 assessment, by a certified substance abuse counselor, of the
3 respondent's substance abuse or dependence and the need for
4 treatment. The counselor shall submit a report with
5 recommendations to the director. If the counselor's assessment
6 establishes that the extent of the respondent's substance abuse
7 or dependence warrants treatment, the director shall so order.
8 All costs for assessment and treatment shall be paid by the
9 respondent.

10 (e) Whenever a license and privilege to operate a vehicle
11 is administratively revoked under this part, the respondent
12 shall be prohibited from purchasing or publicly consuming liquor
13 for a period of three years commencing on the date the
14 administrative revocation becomes effective. Any driver's
15 license, identification card, ignition interlock permit, or
16 special permit issued by a court pursuant to section 291E-61 or
17 the director pursuant to section 291E-44.5 to the respondent
18 during the three-year period authorizing the respondent to
19 operate a vehicle owned by the respondent's employer shall bear
20 the notation "Liquor Restricted" and shall not be accepted as a
21 valid form of identification for the purchase of liquor.



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

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

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

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

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

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



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

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

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

- 15 (1) Only during specified hours of employment, not to
16 exceed twelve hours per day, or the period of the
17 specified assigned hours of work, and only for
18 activities solely within the scope of the employment;
- 19 (2) Only the vehicles specified; and
- 20 (3) Only if the permit is kept in the respondent's
21 possession while operating the employer's vehicle.



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

4 In addition, the director may impose other appropriate
5 restrictions."

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

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

11 (1) Submit proof to the director of compliance with all
12 conditions imposed by the director;

13 (2) Obtain a certified statement from the director
14 indicating eligibility for relicensing and for
15 renewing the privilege to operate a vessel;

16 (3) Present the certified statement to the appropriate
17 licensing official or to the department of land and
18 natural resources, as applicable; and

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



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

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

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

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

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

18 "(b) A person committing the offense of operating a
19 vehicle under the influence of an intoxicant shall be sentenced
20 without possibility of probation or suspension of sentence as
21 follows:



- 1 (1) For the first offense, or any offense not preceded
2 within a [~~five-year~~] ten-year period by a conviction
3 for an offense under this section or section 291E-
4 4(a):
- 5 (A) A fourteen-hour minimum substance abuse
6 rehabilitation program, including education and
7 counseling, or other comparable program deemed
8 appropriate by the court;
- 9 (B) One-year revocation of license and privilege to
10 operate a vehicle during the revocation period
11 and installation during the revocation period of
12 an ignition interlock device on any vehicle
13 operated by the person;
- 14 (C) Any one or more of the following:
- 15 (i) Seventy-two hours of community service work;
16 (ii) Not less than forty-eight hours and not more
17 than five days of imprisonment; or
18 (iii) A fine of not less than [~~\$150~~] \$250 but not
19 more than \$1,000;
- 20 (D) A surcharge of \$25 to be deposited into the
21 neurotrauma special fund; [~~and~~]



1 (E) A surcharge, if the court so orders, of up to \$25
2 to be deposited into the trauma system special
3 fund; and

4 (F) A three-year prohibition, commencing on the
5 effective date of the license revocation period
6 under subparagraph (B), on the purchase or public
7 consumption of liquor by the person;

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

11 (A) Revocation for not less than [~~eighteen~~] twenty-
12 four months nor more than [~~two~~] three years of
13 license and privilege to operate a vehicle during
14 the revocation period and installation during the
15 revocation period of an ignition interlock device
16 on any vehicle operated by the person;

17 (B) Either one of the following:

18 (i) Not less than two hundred forty hours of
19 community service work; or

20 (ii) Not less than five days but not more than
21 thirty days of imprisonment, of which at



- 1 least forty-eight hours shall be served
2 consecutively;
- 3 (C) A fine of not less than [~~\$500~~] \$1,000 but not
4 more than [~~\$1,500~~] \$3,000;
- 5 (D) A surcharge of \$25 to be deposited into the
6 neurotrauma special fund; [~~and~~]
- 7 (E) A surcharge of up to \$50 if the court so orders,
8 to be deposited into the trauma system special
9 fund; and
- 10 (F) A three-year prohibition, commencing on the
11 effective date of the license revocation period
12 under subparagraph (A), on the purchase or public
13 consumption of liquor by the person;
- 14 [~~(3) For an offense that occurs within five years of two~~
15 ~~prior convictions for offenses under this section or~~
16 ~~section 291E-4(a):~~
- 17 ~~(A) A fine of not less than \$500 but not more than~~
18 ~~\$2,500;~~
- 19 ~~(B) Revocation for two years of license and privilege~~
20 ~~to operate a vehicle during the revocation period~~
21 ~~and installation during the revocation period of~~



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

3 ~~(C) Not less than ten days but not more than thirty~~
4 ~~days imprisonment, of which at least forty-eight~~
5 ~~hours shall be served consecutively;~~

6 ~~(D) A surcharge of \$25 to be deposited into the~~
7 ~~neurotrauma special fund; and~~

8 ~~(E) A surcharge of up to \$50 if the court so orders,~~
9 ~~to be deposited into the trauma system special~~
10 ~~fund;~~

11 ~~(4)]~~ (3) In addition to a sentence imposed under
12 paragraphs (1) [~~through (3),~~] and (2), any person
13 eighteen years of age or older who is convicted under
14 this section and who operated a vehicle with a
15 passenger, in or on the vehicle, who was younger than
16 fifteen years of age, shall be sentenced to an
17 additional mandatory fine of \$500 and an additional
18 mandatory term of imprisonment of forty-eight hours;
19 provided that the total term of imprisonment for a
20 person convicted under this paragraph shall not exceed
21 the maximum term of imprisonment provided in paragraph



1 (1) ~~[7]~~ or (2), [~~or (3)~~], as applicable.

2 Notwithstanding paragraphs (1) and (2), the revocation
3 period for a person sentenced under this paragraph
4 shall be not less than two years; and

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

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

10 (B) Is otherwise unable to drive during the
11 revocation period,

12 the person shall be absolutely prohibited from driving during
13 the period of applicable revocation provided in paragraphs (1)
14 to ~~[(4)]~~ (3); provided that the court shall not issue an
15 ignition interlock permit pursuant to subsection (i) and the
16 person shall be subject to the penalties provided by section
17 291E-62 if the person drives during the applicable revocation
18 period."

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

20 "(d) Except as provided in subsection (c), the court may
21 issue a separate permit authorizing a defendant to operate a



1 vehicle owned by the defendant's employer during the period of
2 revocation without installation of an ignition interlock device
3 if the defendant is gainfully employed in a position that
4 requires driving and the defendant will be discharged if
5 prohibited from driving a vehicle not equipped with an ignition
6 interlock device. Any separate permit issued pursuant to this
7 subsection during the three-year period that commences on the
8 effective date of the administrative revocation of the person's
9 license shall bear the notation "Liquor Restricted" and shall
10 not be accepted as a valid form of identification for the
11 purchase of liquor. A separate permit that bears the notation
12 "Liquor Restricted" shall expire no later than the date upon
13 which the three-year period expires."

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

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



1 license. Any new driver's license granted pursuant to this
2 subsection during the three-year period that commences on the
3 effective date of the administrative revocation of the person's
4 license shall bear the notation "Liquor Restricted" and shall
5 not be accepted as a valid form of identification for the
6 purchase of liquor. A driver's license that bears the notation
7 "Liquor Restricted" shall expire no later than the date upon
8 which the three-year period expires."

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

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

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

13 (1) "Convicted [~~three~~] two or more times for offenses of
14 operating a vehicle under the influence" means that,
15 at the time of the behavior for which the person is
16 charged under this section, the person had [~~three~~] two
17 or more times [~~within ten years~~] of the instant
18 offense:

19 (A) A judgment on a verdict or a finding of guilty,
20 or a plea of guilty or nolo contendere, for a
21 violation of section 291-4, 291-4.4, or 291-7 as



1 those sections were in effect on December 31,
2 2001, or section 291E-61 or 707-702.5;

3 (B) A judgment on a verdict or a finding of guilty,
4 or a plea of guilty or nolo contendere, for an
5 offense that is comparable to section 291-4, 291-
6 4.4, or 291-7 as those sections were in effect on
7 December 31, 2001, or section 291E-61 or 707-
8 702.5; or

9 (C) An adjudication of a minor for a law or probation
10 violation that, if committed by an adult, would
11 constitute a violation of section 291-4, 291-4.4,
12 or 291-7 as those sections were in effect on
13 December 31, 2001, or section 291E-61 or 707-
14 702.5,

15 that, at the time of the instant offense, had not been
16 expunged by pardon, reversed, or set aside. All
17 convictions that have been expunged by pardon,
18 reversed, or set aside prior to the instant offense
19 shall not be deemed prior convictions for the purposes
20 of proving that the person is a habitual operator of a
21 vehicle while under the influence of an intoxicant.



- 1 (2) "Convicted one or more times for offenses of
2 habitually operating a vehicle under the influence"
3 means that, at the time of the behavior for which the
4 person is charged under this section, the person had
5 one 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 this section or section 291-4.4 as
10 that section was in effect on December 31, 2001;
- 11 (B) A judgment on a verdict or a finding of guilty,
12 or a plea of guilty or nolo contendere, for an
13 offense that is comparable to this section or
14 section 291-4.4 as that section was in effect on
15 December 31, 2001; or
- 16 (C) An adjudication of a minor for a law or probation
17 violation that, if committed by an adult, would
18 constitute a violation of this section or section
19 291-4.4 as that section was in effect on
20 December 31, 2001,



1 that, at the time of the instant offense, had not been
2 expunged by pardon, reversed, or set aside. All
3 convictions that have been expunged by pardon,
4 reversed, or set aside prior to the instant offense
5 shall not be deemed prior convictions for the purposes
6 of proving the person's status as a habitual operator
7 of a vehicle while under the influence of an
8 intoxicant.

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

11 (A) Was convicted [~~three~~] two or more times for
12 offenses of operating a vehicle under the
13 influence; or

14 (B) Was convicted one or more times for offenses of
15 habitually operating a vehicle under the
16 influence."

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

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

20 (1) An indeterminate term of imprisonment of five years;
21 or



- 1 (2) A term of probation of five years, with conditions to
2 include:
- 3 (A) Mandatory revocation of license and privilege to
4 operate a vehicle for a period not less than [~~one~~
5 ~~year~~] three years but not more than five years;
- 6 (B) Not less than ten days imprisonment, of which at
7 least forty-eight hours shall be served
8 consecutively;
- 9 (C) A fine of not less than \$2,000 but not more than
10 \$5,000;
- 11 [~~(C)~~] (D) Referral to a certified substance abuse counselor
12 as provided in section 291E-61(d);
- 13 [~~(D)~~] (E) A surcharge of \$25 to be deposited into the
14 neurotrauma special fund; and
- 15 [~~(E)~~] (F) May be charged a surcharge of up to \$50 to be
16 deposited into the trauma system special fund if
17 the court so orders.
- 18 In addition to the foregoing, any vehicle owned and operated by
19 the person committing the offense shall be subject to forfeiture
20 pursuant to chapter 712A, provided that the department of
21 transportation shall provide storage for vehicles forfeited



1 under this subsection. In addition to all other penalties
2 provided, any person convicted under this section shall be
3 prohibited, for a three-year period commencing on the effective
4 date of the license revocation period under subparagraph (A),
5 from purchasing or publicly consuming liquor."

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

7 "(f) Notwithstanding any other law to the contrary,
8 whenever a court revokes a person's driver's license pursuant to
9 this section, the examiner of drivers shall not grant to the
10 person a new driver's license until expiration of the period of
11 revocation determined by the court. After the period of
12 revocation is complete, the person may apply for and the
13 examiner of drivers may grant to the person a new driver's
14 license. Any new driver's license granted pursuant to this
15 subsection during the three-year period that commences on the
16 effective date of the administrative revocation of the person's
17 license shall bear the notation "Liquor Restricted" and shall
18 not be accepted as a valid form of identification for the
19 purchase of liquor. A driver's license that bears the notation
20 "Liquor Restricted" shall expire no later than the date upon
21 which the three-year period expires."



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

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

4 "(b) Any person under subsection (a) may file a petition
5 in the district court for permission to apply for an ignition
6 interlock instruction permit that will allow the person to take
7 the driving demonstration portion of the driver's license
8 examination. The petition shall be filed with the clerk of the
9 district court in the district in which the arrest occurred and
10 shall be accompanied by the required filing fee for civil
11 actions. The petition shall include the following:

- 12 (1) A certified court abstract establishing that other
13 than the instant offense, the petitioner has no
14 pending traffic matters, outstanding fines,
15 outstanding court costs, and outstanding restitution;
- 16 (2) A certified statement from the director establishing
17 that the petitioner has complied with all
18 requirements, including payment of applicable fees,
19 undergone substance abuse assessment and treatment,
20 and surrendered motor vehicle registration and vehicle
21 number plates, if applicable; and



1 (3) A proposed order.

2 In determining whether the petitioner may be granted an ignition
3 interlock instruction permit, the district court shall consider
4 whether the requirements of paragraphs (1) through (3) are met
5 and may also consider any other factors, including but not
6 limited to the petitioner's criminal and traffic record after
7 receiving a lifetime license revocation, and based on the
8 foregoing, the district court shall determine whether an order
9 allowing the petitioner to apply to the director for an ignition
10 interlock instruction permit and requiring the director to
11 remove any stopper placed on the petitioner's motor vehicle
12 registration files pursuant to part III of chapter 291E, as
13 applicable, shall be issued; provided that the petitioner
14 complies with applicable driver licensing requirements under
15 part VI of chapter 286, and proof of financial responsibility
16 under chapter 287. Upon submission of the order to the
17 director, the director shall remove any stopper placed on the
18 person's motor vehicle registration files and issue a certified
19 statement indicating eligibility for an ignition interlock
20 instruction permit.



1 Any ignition interlock instruction permit issued pursuant
2 to this subsection during the three-year period that commences
3 on the effective date of the administrative revocation of the
4 person's license shall bear the notation "Liquor Restricted" and
5 shall not be accepted as a valid form of identification for the
6 purchase of liquor. An ignition interlock instruction permit
7 that bears the notation "Liquor Restricted" shall expire no
8 later than the date upon which the three-year period expires."

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

10 "(d) Upon showing the ignition interlock instruction
11 permit to the examiner of drivers, an applicant may take the
12 driving demonstration portion of the driver's license
13 examination in accordance with section 286-108. Upon successful
14 completion of the driving demonstration portion of the driver's
15 license examination, an applicant may apply to the director for
16 an ignition interlock permit pursuant to section 291E-44.5. If
17 granted, the ignition interlock permit shall bear the notation
18 "Liquor Restricted" and shall not be accepted as a valid form of
19 identification for the purchase of alcohol. An ignition
20 interlock instruction permit that bears the notation "Liquor
21 Restricted" shall expire as provided in this section and section



1 286-106 or upon the end of the revocation period, whichever
2 occurs first."

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

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

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

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



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

4 (a) The intoxicating liquor provided to the person under
5 the age of twenty-one or restricted person was an
6 ingredient in a medicine prescribed by a licensed
7 physician for medical treatment of the person under
8 the age of twenty-one[+] or restricted person;

9 (b) The intoxicating liquor was provided to the person
10 under the age of twenty-one or restricted person as
11 part of a ceremony of a recognized religion;

12 (c) The defendant provided the intoxicating liquor to the
13 person under the age of twenty-one or restricted
14 person with the belief, which was reasonable under the
15 circumstances, that the person under the age of
16 twenty-one had attained the age of twenty-one[+] or
17 was not a restricted person;

18 (d) The defendant provided the intoxicating liquor to the
19 person under the age of twenty-one with the express
20 consent of the parent or legal guardian and with the
21 belief, which was reasonable under the circumstances,



1 that the person under the age of twenty-one would not
2 consume any portion of the substance;

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

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

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

18 The fact that the defendant distributed or sold
19 intoxicating liquor to a person under the age of twenty-one or a
20 restricted person is prima facie evidence that the defendant



1 knew the transferee was a person under the age of twenty-one[7]
2 or a restricted person except as provided in subsection (2)(c).

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

5 (5) For purposes of this section, "restricted person"
6 means a person who holds any driver's license, identification
7 card, ignition interlock permit, or special permit that bears
8 the notation "Liquor Restricted" due to conviction or
9 administrative license revocation for violation of section 291E-
10 61 or section 291E-61.5."

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

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



1 (2) The fact that the defendant distributed or sold a
2 dangerous drug, harmful drug, detrimental drug, or intoxicating
3 compound to a minor or a restricted person is prima facie
4 evidence that the defendant knew the transferee to be a minor[-]
5 or a restricted person.

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

8 SECTION 15. This Act does not affect rights and duties
9 that matured, penalties that were incurred, and proceedings that
10 were begun before its effective date.

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

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

19 SECTION 18. This Act shall take effect on July 1, 2019.



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 or habitually operating a vehicle under the influence of an intoxicant from purchasing or publicly consuming alcohol for a period of three years following conviction or administrative license revocation. Changes the threshold for the offense of habitually operating a vehicle under the influence of an intoxicant to two or more convictions of operating a vehicle under the influence of an intoxicant within ten years. Repeals sentencing requirements for a third conviction of operating a vehicle under the influence of an intoxicant within five years. Increases minimum fines and maximum fine limits. Increases minimum and maximum length of driver's license revocation for a second conviction of operating a vehicle under the influence of an intoxicant within ten years. (PROPOSED HD1)

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