
A BILL FOR AN ACT

RELATING TO THE IGNITION INTERLOCK PROGRAM.

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

1 SECTION 1. The legislature finds that it is in the
2 interest of the State to decrease the incidence of operating a
3 vehicle under the influence of an intoxicant. Therefore, it is
4 vitally important that the State's ignition interlock program be
5 strengthened and expanded by requiring compliance with the
6 program prior to removal of an interlock device by providing
7 courts the option to utilize a sobriety monitoring system. It
8 is equally vital that persons convicted of operating a vehicle
9 under the influence of an intoxicant not be allowed to "sit out"
10 the interlock period thereby driving non-ignition interlock
11 vehicles. Additionally, it is important for the program to be
12 expanded to include other monitoring systems and technologies at
13 the discretion of the court.

14 The purpose of this Act is to:

15 (1) Augment the State's existing ignition interlock
16 program;



- 1 (2) Expand the program to include other monitoring systems
2 or technologies; and
- 3 (3) Establish a rule-making authority within the
4 department of transportation to develop, implement,
5 and manage the compliance-based provisions of this
6 Act.

7 SECTION 2. Section 286-118.5, Hawaii Revised Statutes, is
8 amended by amending subsection (c) to read as follows:

9 "(c) A holder of a valid [~~ignition interlock~~] intoxicant
10 control system permit may take any tests necessary to apply for
11 relicensing no sooner than thirty days prior to expiration of
12 the revocation period; provided that the driver's license shall
13 not be issued until the completion of the revocation period."

14 SECTION 3. Section 291E-1, Hawaii Revised Statutes, is
15 amended by adding a new definition to be appropriately inserted
16 and to read as follows:

17 "Intoxicant Control System" means a system or other
18 technology designed to monitor a driver's alcohol concentration,
19 including a breath alcohol ignition interlock device, that is
20 certified pursuant to section 291E-6 and rules adopted
21 thereunder that, when correctly installed or used, prevents a



1 vehicle from being started without first requiring a testing
2 procedure that indicates the person's alcohol concentration is
3 less than .02."

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

6 "§291E-5 [~~Ignition interlock~~] Intoxicant control system
7 user affordability. The director of transportation shall
8 contract with the selected [~~ignition interlock vendor~~]
9 intoxicant control system vendors to provide partial financial
10 relief for the installation and the periodic calibration charges
11 to offenders who apply for such assistance and who are
12 recipients, at the time of license revocation or suspension, of
13 either food stamps under the Supplemental Nutrition Assistance
14 Program, or free services under the Older Americans Act or
15 Developmentally Disabled Assistance and Bill of Rights Act."

16 SECTION 5. Section 291E-6, Hawaii Revised Statutes, is
17 amended by amending its title and subsections (a) through (d) to
18 read as follows:

19 "§291E-6 [~~Ignition interlock devices;~~] Intoxicant control
20 systems; certification. (a) The director of transportation
21 shall establish and administer a statewide program relating to



1 certification and monitoring of [~~ignition interlock devices~~]
2 intoxicant control systems installed pursuant to chapter 291E
3 and shall select a single vendor for each system to install and
4 maintain them.

5 (b) The program shall include standards and procedures for
6 the certification of [~~ignition interlock devices~~] intoxicant
7 control systems installed pursuant to chapter 291E. At a
8 minimum, the standards shall require that the devices:

- 9 (1) Be certified by an independent laboratory to meet or
10 exceed the guidelines published by the National
11 Highway Traffic Safety Administration;
- 12 (2) Operate using an alcohol-specific sensor technology;
- 13 (3) Employ a digital camera by which a photograph of the
14 person using the device can be incorporated into the
15 electronic record generated by each use of the device;
- 16 (4) Require a rolling retest by which the driver must,
17 within a specified period of time or distance driven
18 after starting the vehicle, be retested and found to
19 have an alcohol concentration of less than .02, with a
20 margin of error of .01; and



1 (5) Generate a record of vehicle usage, including dates
2 and times driven.

3 (c) The program shall include standards and procedures for
4 the certification of the vendor selected to install and maintain
5 ~~[ignition interlock devices]~~ intoxicant control systems pursuant
6 to chapter 291E. At a minimum, the standards shall require that
7 the vendor:

8 (1) Install only an ~~[ignition interlock device]~~ intoxicant
9 control system that is certified pursuant to this
10 section;

11 (2) Offer or contract for ~~[ignition interlock device]~~
12 intoxicant control system installation and maintenance
13 statewide;

14 (3) Train drivers who are required to install an ~~[ignition~~
15 ~~interlock device,]~~ intoxicant control system, pursuant
16 to chapter 291E, in how to use the ~~[device,]~~ system;

17 (4) Schedule the driver for all necessary readings and
18 maintenance of the ~~[device,]~~ system; and

19 (5) Provide periodic reports regarding the use of each
20 ~~[ignition interlock device]~~ intoxicant control system
21 installed pursuant to chapter 291E, including



1 incidents of test failure, attempts to circumvent the
2 [~~device,~~] system, and dates, times, and distances the
3 vehicle was driven.

4 (d) The [~~vendor~~] vendors selected for installation and
5 maintenance of [~~ignition interlock devices~~] intoxicant control
6 systems pursuant to chapter 291E shall be audited annually by
7 the director of transportation pursuant to this section and the
8 rules adopted thereunder. The director of transportation may
9 require the vendor to pay for all or part of the costs incurred
10 in conducting the audit."

11 SECTION 6. Section 291E-31, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§291E-31 Notice of administrative revocation; effect.** As
14 used in this part, the notice of administrative revocation:

15 (1) Establishes that the respondent's license and
16 privilege to operate a vehicle in the State or on or
17 in the waters of the State shall be terminated:

18 (A) Thirty days after the date the notice of
19 administrative revocation is issued in the case
20 of an alcohol related offense;



1 (B) Forty-four days after the date the notice of
2 administrative revocation is issued in the case
3 of a drug related offense; or

4 (C) Such later date as is established by the director
5 under section 291E-38,
6 if the director administratively revokes the
7 respondent's license and privilege;

8 (2) Establishes the date on which administrative
9 revocation proceedings against the respondent were
10 initiated;

11 (3) Serves as a temporary permit, if applicable, to
12 operate a vehicle as provided in section 291E-33; and

13 (4) Notifies the respondent that the respondent shall
14 obtain an [~~ignition interlock~~] intoxicant control
15 system permit and keep an [~~ignition interlock device~~]
16 intoxicant control system installed and operating in
17 any vehicle the respondent operates during the
18 revocation period if the respondent had a valid
19 license at the time of the arrest."

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



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

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

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

10 (2) That the respondent may request the director, within
11 six days of the date the decision is mailed, to
12 schedule an administrative hearing to review the
13 administrative revocation;

14 (3) That, if the respondent's request for an
15 administrative hearing is received by the director
16 within six days of the date the decision was mailed,
17 the hearing shall be scheduled to commence:

18 (A) No later than twenty-five days after the date of
19 the issuance of the notice of administrative
20 revocation in the case of an alcohol related
21 offense; and



- 1 (B) No later than thirty-nine days after the date of
2 the issuance of the notice of administrative
3 revocation in the case of a drug related offense;
- 4 (4) The procedure to request an administrative hearing;
- 5 (5) That failure to request an administrative hearing
6 within the time provided shall cause the
7 administrative revocation to take effect for the
8 period and under the conditions established by the
9 director in the decision;
- 10 (6) That the respondent may regain the right to a hearing
11 by requesting the director, within sixty days after
12 the issuance of the notice of administrative
13 revocation, to schedule a hearing;
- 14 (7) That the director shall schedule the hearing to
15 commence no later than thirty days after a request
16 under paragraph (6) is received, but that, except as
17 provided in section 291E-38(j), the temporary permit
18 shall not be extended if the respondent fails to
19 request an administrative hearing within the initial
20 six-day period provided for that purpose;



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

4 (9) The duration of the administrative revocation and
5 other conditions that may be imposed, including:
6 referral to the driver's education program for an
7 assessment of the respondent's substance abuse or
8 dependence and the need for treatment; and

9 (10) That the respondent shall obtain an ~~ignition~~
10 ~~interlock~~ intoxicant control system permit in order
11 to operate a vehicle during the revocation period if
12 the respondent had a valid license at the time of the
13 arrest."

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

15 "(h) The notice shall state that, if the administrative
16 revocation is sustained at the hearing, a written decision shall
17 be mailed to the respondent, or to the parent or guardian of the
18 respondent if the respondent is under the age of eighteen, that
19 shall contain, at a minimum, the following information:

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

21 (2) The duration of the administrative revocation;



1 (3) Other conditions that may be imposed by law, including
2 the use of an [~~ignition interlock device,~~] intoxicant
3 control system; and

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

5 SECTION 8. Section 291E-38, Hawaii Revised Statutes, is
6 amended by amending subsection (k) to read as follows:

7 "(k) The director may grant a special motor vehicle
8 registration, pursuant to section 291E-48, to a qualified
9 household member or a co-owner of any motor vehicle upon
10 determination that:

11 (1) The person is completely dependent on the motor
12 vehicle for the necessities of life; and

13 (2) At the time of the application for a special motor
14 vehicle registration, the respondent does not have a
15 valid [~~ignition interlock~~] intoxicant control system
16 permit.

17 The special motor vehicle registration shall not be valid for
18 use by the respondent."

19 SECTION 9. Section 291E-41, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:



1 "(b) Except as provided in paragraph (5) and in section
2 291E-44.5, the respondent shall keep an [~~ignition interlock~~
3 ~~device~~] intoxicant control system installed and operating in any
4 vehicle the respondent operates during the revocation period.
5 Except as provided in section 291E-5, installation and
6 maintenance of the [~~ignition interlock device~~] intoxicant
7 control system shall be at the respondent's expense. The
8 periods of administrative revocation, with respect to a license
9 and privilege to operate a vehicle, that shall be imposed under
10 this part are as follows:

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



- 1 (3) A two-year revocation of license and privilege to
2 operate a vehicle, if the respondent's record shows
3 two prior alcohol enforcement contacts or drug
4 enforcement contacts during the five years preceding
5 the date the notice of administrative revocation was
6 issued;
- 7 (4) A minimum of five years up to a maximum of ten years
8 revocation of license and privilege to operate a
9 vehicle, if the respondent's record shows three or
10 more prior alcohol enforcement contacts or drug
11 enforcement contacts during the ten years preceding
12 the date the notice of administrative revocation was
13 issued;
- 14 (5) For respondents under the age of eighteen years who
15 were arrested for a violation of section 291E-61 or
16 291E-61.5, revocation of license and privilege to
17 operate a vehicle for the appropriate revocation
18 period provided in paragraphs (1) to (4) or in
19 subsection (c); provided that the respondent shall be
20 prohibited from driving during the period preceding
21 the respondent's eighteenth birthday and shall



1 thereafter be subject to the [~~ignition-interlock~~
2 ~~device~~] intoxicant control system requirement of this
3 subsection for the balance of the revocation period;
4 or

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

13 (A) The respondent shall be absolutely prohibited
14 from driving during the revocation period and
15 subject to the penalties provided by section
16 291E-62 if the respondent drives during the
17 revocation period; and

18 (B) The director shall not issue an [~~ignition~~
19 ~~interlock~~] intoxicant control system permit to
20 the respondent pursuant to section 291E-44.5;



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

6 SECTION 10. Section 291E-44.5, Hawaii Revised Statutes, is
7 amended by amending its title and subsections (a) through (d) to
8 read as follows:

9 "§291E-44.5 ~~[Ignition interlock]~~ Intoxicant control system
10 permits; driving for employment. (a) Except as provided in
11 subsection (b), upon proof that the respondent has installed an
12 ~~[ignition interlock device]~~ intoxicant control system in any
13 vehicle the respondent operates and obtained motor vehicle
14 insurance or self-insurance that complies with the requirements
15 of section 431:10C-104 or 431:10C-105, the director shall issue
16 an ~~[ignition interlock]~~ intoxicant control system permit that
17 will allow the respondent to drive a vehicle equipped with an
18 ~~[ignition interlock device]~~ intoxicant control system during the
19 revocation period.



1 (b) Except as provided in sections 286-118.5 and
2 291E-61.6, the director shall not issue an [~~ignition interlock~~]
3 intoxicant control system permit to:

4 (1) A respondent whose license is expired, suspended, or
5 revoked as a result of action other than the instant
6 revocation;

7 (2) A respondent who does not hold a valid license at the
8 time of arrest for the violation of section 291E-61;

9 (3) A respondent who holds a license that is a learner's
10 permit or instruction permit; or

11 (4) A respondent who holds either a category 4 license
12 under section 286-102(b) or a commercial driver's
13 license under section 286-239(a) unless the [~~ignition~~
14 ~~interlock~~] intoxicant control system permit is
15 restricted to a category 1, 2, or 3 license under
16 section 286-102(b).

17 (c) Except as provided in subsection (b), the director may
18 issue a separate permit authorizing a respondent to operate a
19 vehicle owned by the respondent's employer during the period of
20 revocation without installation of an [~~ignition interlock~~
21 ~~device~~] intoxicant control system if the respondent is gainfully



1 employed in a position that requires driving and the respondent
2 will be discharged if prohibited from driving a vehicle not
3 equipped with an [~~ignition interlock device.~~] intoxicant control
4 system.

5 (d) A request made pursuant to subsection (c) shall be
6 accompanied by:

7 (1) A sworn statement from the respondent containing facts
8 establishing that the respondent currently is employed
9 in a position that requires driving and that the
10 respondent will be discharged if prohibited from
11 driving a vehicle not equipped with an [~~ignition~~
12 ~~interlock device,~~] intoxicant control system; and

13 (2) A sworn statement from the respondent's employer
14 establishing that the employer will, in fact,
15 discharge the respondent if the respondent cannot
16 drive a vehicle that is not equipped with an [~~ignition~~
17 ~~interlock device~~] intoxicant control system and
18 identifying the specific vehicle or vehicles the
19 respondent will drive for the purposes of employment
20 and the hours of the day, not to exceed twelve hours
21 per day, or the period of the specified assigned hours



1 of work, the respondent will drive the vehicle or
2 vehicles for purposes of employment."

3 SECTION 11. Section 291E-48, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Anytime after the effective date of revocation or
6 after the administrative hearing decision is mailed pursuant to
7 section 291E-38(i), a qualified household member or co-owner of
8 a motor vehicle with a respondent who has had a motor vehicle
9 registration revoked under this part may submit a sworn
10 statement to the director requesting a special motor vehicle
11 registration. The director may grant the request upon
12 determining that the following conditions have been met:

- 13 (1) The applicant is a household member of the
14 respondent's or a co-owner of the vehicle;
- 15 (2) The applicant has a license that has not expired or
16 been suspended or revoked;
- 17 (3) The applicant is completely dependent on the motor
18 vehicle for the necessities of life;
- 19 (4) The director finds that the applicant will take
20 reasonable precautions to ensure that the respondent
21 will not drive the vehicle; and



1 (5) The respondent does not have a valid [~~ignition~~
2 interlock] intoxicant control system permit.

3 A person to whom a special motor vehicle registration has been
4 granted shall apply to the director of the appropriate county
5 agency for special series number plates, as provided in section
6 249-9.4."

7 SECTION 12. Section 291E-61, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§291E-61 Operating a vehicle under the influence of an**
10 **intoxicant.** (a) A person commits the offense of operating a
11 vehicle under the influence of an intoxicant if the person
12 operates or assumes actual physical control of a vehicle:

13 (1) While under the influence of alcohol in an amount
14 sufficient to impair the person's normal mental
15 faculties or ability to care for the person and guard
16 against casualty;

17 (2) While under the influence of any drug that impairs the
18 person's ability to operate the vehicle in a careful
19 and prudent manner;

20 (3) With .08 or more grams of alcohol per two hundred ten
21 liters of breath; or



1 (4) With .08 or more grams of alcohol per one hundred
2 milliliters or cubic centimeters of blood.

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

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

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

13 (B) One-year revocation of license and privilege to
14 operate a vehicle during the revocation period
15 and installation during the revocation period of
16 an [~~ignition interlock device~~] intoxicant control
17 system on any vehicle operated by the person;

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

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

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



- 1 (iii) A fine of not less than \$150 but not more
2 than \$1,000;
- 3 (D) A surcharge of \$25 to be deposited into the
4 neurotrauma special fund; and
- 5 (E) A surcharge, if the court so orders, of up to \$25
6 to be deposited into the trauma system special
7 fund;
- 8 (2) For an offense that occurs within five years of a
9 prior conviction for an offense under this section or
10 section 291E-4(a):
- 11 (A) Revocation for not less than eighteen months nor
12 more than two years of license and privilege to
13 operate a vehicle during the revocation period
14 and installation during the revocation period of
15 an [~~ignition interlock device~~] intoxicant control
16 system 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 but not more than
4 \$1,500;

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;

10 (3) For an offense that occurs within five years of two
11 prior convictions for offenses under this section or
12 section 291E-4(a):

13 (A) A fine of not less than \$500 but not more than
14 \$2,500;

15 (B) Revocation for two years of license and privilege
16 to operate a vehicle during the revocation period
17 and installation during the revocation period of
18 an [~~ignition interlock device~~] intoxicant control
19 system on any vehicle operated by the person;



- 1 (C) Not less than ten days but not more than thirty
2 days imprisonment, of which at least forty-eight
3 hours shall be served consecutively;
- 4 (D) A surcharge of \$25 to be deposited into the
5 neurotrauma special fund; and
- 6 (E) A surcharge of up to \$50 if the court so orders,
7 to be deposited into the trauma system special
8 fund;
- 9 (4) In addition to a sentence imposed under paragraphs (1)
10 through (3), any person eighteen years of age or older
11 who is convicted under this section and who operated a
12 vehicle with a passenger, in or on the vehicle, who
13 was younger than fifteen years of age, shall be
14 sentenced to an additional mandatory fine of \$500 and
15 an additional mandatory term of imprisonment of forty-
16 eight hours; provided that the total term of
17 imprisonment for a person convicted under this
18 paragraph shall not exceed the maximum term of
19 imprisonment provided in paragraph (1), (2), or (3),
20 as applicable. Notwithstanding paragraphs (1) and
21 (2), the revocation period for a person sentenced



1 under this paragraph shall be not less than two years;
2 and

3 (5) If the person demonstrates to the court that the
4 person:

5 (A) Does not own or have the use of a vehicle in
6 which the person can install an [~~ignition~~
7 ~~interlock device~~] intoxicant control system
8 during the revocation period; [~~or~~]

9 (B) Is otherwise unable to drive during the
10 revocation period[~~7~~]; or

11 (C) Is unable, as determined by the department of
12 transportation, to operate an intoxicant control
13 system due to a physical disability; provided
14 that:

15 (i) The department of transportation's
16 determination that a person is unable to
17 operate an intoxicant control system shall
18 be reasonable and based on substantial
19 evidence;

20 (ii) This determination is subject to review by a
21 court of competent jurisdiction; and



1 (iii) The department of transportation may charge
2 a person seeking a medical exemption under
3 this subparagraph a reasonable fee for an
4 assessment in making the determination,
5 the person shall be absolutely prohibited from driving during
6 the period of applicable revocation provided in paragraphs (1)
7 to (4); provided that the court shall not issue an [~~ignition~~
8 ~~interlock~~] intoxicant control system permit pursuant to
9 subsection (i) and the person shall be subject to the penalties
10 provided by section 291E-62 if the person drives during the
11 applicable revocation period[-]; provided that the revocation
12 period may be extended pursuant to subsection (l); and
13 revocation shall remain in effect until the requirements of
14 subsection (n) are met.

15 (c) Except as provided in sections 286-118.5 and
16 291E-61.6, the court shall not issue an [~~ignition-interlock~~]
17 intoxicant control system permit to:

18 (1) A defendant whose license is expired, suspended, or
19 revoked as a result of action other than the instant
20 offense;



1 (2) A defendant who does not hold a valid license at the
2 time of the instant offense;

3 (3) A defendant who holds either a category 4 license
4 under section 286-102(b) or a commercial driver's
5 license under section 286-239(a), unless the ~~ignition~~
6 ~~interlock~~ intoxicant control system permit is
7 restricted to a category 1, 2, or 3 license under
8 section 286-102(b); or

9 (4) A defendant who holds a license that is a learner's
10 permit or instruction permit.

11 (d) Except as provided in subsection (c), the court may
12 issue a separate permit authorizing a defendant to operate a
13 vehicle owned by the defendant's employer during the period of
14 revocation without installation of an ~~ignition interlock~~
15 ~~device~~ intoxicant control system if the defendant is gainfully
16 employed in a position that requires driving and the defendant
17 will be discharged if prohibited from driving a vehicle not
18 equipped with an ~~ignition interlock device.~~ intoxicant control
19 system.

20 (e) A request made pursuant to subsection (d) shall be
21 accompanied by:



- 1 (1) A sworn statement from the defendant containing facts
2 establishing that the defendant currently is employed
3 in a position that requires driving and that the
4 defendant will be discharged if prohibited from
5 driving a vehicle not equipped with an [~~ignition~~
6 ~~interlock device;~~] intoxicant control system; and
- 7 (2) A sworn statement from the defendant's employer
8 establishing that the employer will, in fact,
9 discharge the defendant if the defendant cannot drive
10 a vehicle that is not equipped with an [~~ignition~~
11 ~~interlock device~~] intoxicant control system and
12 identifying the specific vehicle the defendant will
13 drive for purposes of employment and the hours of the
14 day, not to exceed twelve hours per day, or the period
15 of the specified assigned hours of work, the defendant
16 will drive the vehicle for purposes of employment.
- 17 (f) A permit issued pursuant to subsection (d) shall
18 include restrictions allowing the defendant to drive:
- 19 (1) Only during specified hours of employment, not to
20 exceed twelve hours per day, or the period of the



- 1 specified assigned hours of work, and only for
2 activities solely within the scope of the employment;
- 3 (2) Only the vehicle specified; and
- 4 (3) Only if the permit is kept in the defendant's
5 possession while operating the employer's vehicle.
- 6 (g) Notwithstanding any other law to the contrary, any:
- 7 (1) Conviction under this section, section 291E-4(a), or
8 section 291E-61.5;
- 9 (2) Conviction in any other state or federal jurisdiction
10 for an offense that is comparable to operating or
11 being in physical control of a vehicle while having
12 either an unlawful alcohol concentration or an
13 unlawful drug content in the blood or urine or while
14 under the influence of an intoxicant or habitually
15 operating a vehicle under the influence of an
16 intoxicant; or
- 17 (3) Adjudication of a minor for a law violation that, if
18 committed by an adult, would constitute a violation of
19 this section or an offense under section 291E-4(a), or
20 section 291E-61.5,



1 shall be considered a prior conviction for the purposes of
2 imposing sentence under this section. Any judgment on a verdict
3 or a finding of guilty, a plea of guilty or nolo contendere, or
4 an adjudication, in the case of a minor, that at the time of the
5 offense has not been expunged by pardon, reversed, or set aside
6 shall be deemed a prior conviction under this section. No
7 license and privilege revocation shall be imposed pursuant to
8 this section if the person's license and privilege to operate a
9 vehicle has previously been administratively revoked pursuant to
10 part III for the same act; provided that, if the administrative
11 revocation is subsequently reversed, the person's license and
12 privilege to operate a vehicle shall be revoked as provided in
13 this section. There shall be no requirement for the
14 installation of an [~~ignition interlock device~~] intoxicant
15 control system pursuant to this section if the requirement has
16 previously been imposed pursuant to part III for the same act;
17 provided that, if the requirement is subsequently reversed, a
18 requirement for the installation of an [~~ignition interlock~~
19 ~~device~~] intoxicant control system shall be imposed as provided
20 in this section.



1 (h) Whenever a court sentences a person pursuant to
2 subsection (b), it also shall require that the offender be
3 referred to the driver's education program for an assessment, by
4 a certified substance abuse counselor, of the offender's
5 substance abuse or dependence and the need for appropriate
6 treatment. The counselor shall submit a report with
7 recommendations to the court. The court shall require the
8 offender to obtain appropriate treatment if the counselor's
9 assessment establishes the offender's substance abuse or
10 dependence. All costs for assessment and treatment shall be
11 borne by the offender.

12 (i) Upon proof that the defendant has:

13 (1) Installed an [~~ignition-interlock-device~~] intoxicant
14 control system in any vehicle the defendant operates
15 pursuant to subsection (b); and

16 (2) Obtained motor vehicle insurance or self-insurance
17 that complies with the requirements under either
18 section 431:10C-104 or section 431:10C-105,
19 the court shall issue an [~~ignition-interlock~~] intoxicant control
20 system permit that will allow the defendant to drive a vehicle



1 equipped with an [~~ignition interlock device~~] intoxicant control
2 system during the revocation period.

3 (j) Notwithstanding any other law to the contrary,
4 whenever a court revokes a person's driver's license pursuant to
5 this section, the examiner of drivers shall not grant to the
6 person a new driver's license until the expiration of the period
7 of revocation determined by the court [-] or as extended pursuant
8 to section (1). After the period of revocation is completed,
9 the person may apply for and the examiner of drivers may grant
10 to the person a new driver's license.

11 (k) Any person sentenced under this section may be ordered
12 to reimburse the county for the cost of any blood or urine tests
13 conducted pursuant to section 291E-11. The court shall order
14 the person to make restitution in a lump sum, or in a series of
15 prorated installments, to the police department or other agency
16 incurring the expense of the blood or urine test. Except as
17 provided in section 291E-5, installation and maintenance of the
18 [~~ignition interlock device~~] intoxicant control system required
19 by subsection (b) shall be at the defendant's own expense.

20 (1) The period of license revocation under subsection (b)
21 shall be tolled for any period in which the person does not have



1 an intoxicant control system installed in a vehicle owned or
2 operated by the person, unless otherwise provided by law.

3 (m) A person who is required to install an intoxicant
4 control system in a vehicle pursuant to this chapter, but does
5 not install the required intoxicant control system, may be
6 sentenced as follows:

7 (1) For the first offense, or any offense not preceded by
8 another offense within a ten-year period, a minimum of
9 sixty days in a sobriety program, in which the person
10 shall be required to be fully compliant for at least
11 thirty days;

12 (2) For the second offense, a minimum of ninety days in a
13 sobriety program, in which the person shall be
14 required to be fully compliant for at least thirty
15 days; or

16 (3) For the third offense, and any subsequent offense
17 after, a minimum of one hundred twenty days in a
18 sobriety program, in which the person shall be
19 required to be fully compliant for at least thirty
20 days.



1 (n) A restriction imposed under subsection (b) shall
2 remain in effect until the department of transportation receives
3 a declaration from the person's intoxicant control system
4 vendor, in a form to be determined by the department of
5 transportation, certifying that there have been none of the
6 following incidents in the one hundred eighty consecutive days
7 prior to the date of release:

8 (1) An attempt to start the vehicle with a breath alcohol
9 concentration of 0.04, or its equivalent measure per
10 the device installed, or more unless a subsequent test
11 performed within ten minutes registers a breath
12 alcohol concentration lower than 0.04 or its
13 equivalent measure per the device installed and the
14 digital image confirms the same person provided both
15 samples;

16 (2) Failure to take any random test unless a review of the
17 digital image confirms that the vehicle was not
18 occupied by the person at the time of the missed test;

19 (3) Failure to pass any random retest with a breath
20 alcohol concentration of 0.025, or its equivalent
21 measure per the device installed, or lower unless a



1 subsequent test performed within ten minutes registers
2 a breath alcohol concentration lower than 0.025 or its
3 equivalent measure per the device installed, and the
4 digital image confirms the same person provided both
5 samples; or

6 (4) Failure of the person to appear at the intoxicant
7 control system or technology vendor when required for
8 maintenance, repair, calibration, monitoring,
9 inspection, or replacement of the device, system, or
10 technology.

11 (o) In addition to the revocation period imposed under
12 subsection (b), a court may require a defendant to enroll or
13 participate in an alcohol or substance abuse education or
14 treatment program or a sobriety program. A defendant may choose
15 to enroll in an alcohol or substance abuse education or
16 treatment program prior to conviction. If the defendant enrolls
17 in a compliant program prior to conviction, participation in
18 that program shall count toward fulfilling a requirement to
19 enroll or participate in an alcohol or substance abuse education
20 or treatment program or a sobriety program, if enrollment or
21 participation in such a program is later ordered by the judge.



1 For purposes of this subsection, "sobriety program" means a
2 sobriety and drug monitoring program which requires a person to:

3 (1) Abstain from alcohol and controlled substances for a
4 specified period; or

5 (2) Be subject to testing to determine whether alcohol or
6 a controlled substance is present in the person's body
7 in the following manner:

8 (A) At least twice per day at a central location, to
9 be determined by the department of
10 transportation, where an immediate sanction can
11 be effectively applied; or

12 (B) If testing creates a documented hardship or is
13 geographically impractical, allow an alternative
14 method of random alcohol monitoring and testing,
15 approved by the department of transportation and
16 consistent with a timely sanction.

17 (p) The director of transportation shall adopt rules
18 pursuant to chapter 91 necessary for the purposes of this
19 section.

20 [~~1~~] (q) As used in this section, the term "examiner of
21 drivers" has the same meaning as provided in section 286-2."



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

3 1. By amending its title to read:

4 "[+]§291E-61.6[+] Petition for [~~ignition interlock~~
5 intoxicant control system instruction permit and [~~ignition~~
6 ~~interlock~~ intoxicant control system permit; eligibility;
7 requirements."

8 2. By amending subsections (b) through (e) to read:

9 "(b) Any person under subsection (a) may file a petition
10 in the district court for permission to apply for an [~~ignition~~
11 ~~interlock~~] intoxicant control system instruction permit that
12 will allow the person to take the driving demonstration portion
13 of the driver's license examination. The petition shall be
14 filed with the clerk of the district court in the district in
15 which the arrest occurred and shall be accompanied by the
16 required filing fee for civil actions. The petition shall
17 include the following:

- 18 (1) A certified court abstract establishing that other
19 than the instant offense, the petitioner has no
20 pending traffic matters, outstanding fines,
21 outstanding court costs, and outstanding restitution;



1 (2) A certified statement from the director establishing
2 that the petitioner has complied with all
3 requirements, including payment of applicable fees,
4 undergone substance abuse assessment and treatment,
5 and surrendered motor vehicle registration and vehicle
6 number plates, if applicable; and

7 (3) A proposed order.

8 In determining whether the petitioner may be granted an
9 ~~[ignition interlock]~~ intoxicant control system instruction
10 permit, the district court shall consider whether the
11 requirements of paragraphs (1) through (3) are met and may also
12 consider any other factors, including but not limited to the
13 petitioner's criminal and traffic record after receiving a
14 lifetime license revocation, and based on the foregoing, the
15 district court shall determine whether an order allowing the
16 petitioner to apply to the director for an ~~[ignition interlock]~~
17 intoxicant control system instruction permit and requiring the
18 director to remove any stopper placed on the petitioner's motor
19 vehicle registration files pursuant to part III of chapter 291E,
20 as applicable, shall be issued; provided that the petitioner
21 complies with applicable driver licensing requirements under



1 part VI of chapter 286, and proof of financial responsibility
2 under chapter 287. Upon submission of the order to the
3 director, the director shall remove any stopper placed on the
4 person's motor vehicle registration files and issue a certified
5 statement indicating eligibility for an [~~ignition interlock~~]
6 intoxicant control system instruction permit.

7 (c) To apply for an [~~ignition interlock~~] intoxicant
8 control system instruction permit, the person shall:

- 9 (1) Present the certified statement of eligibility for
10 [~~ignition interlock~~] intoxicant control system
11 instruction permit, as provided in subsection (b), to
12 the examiner of drivers;
- 13 (2) Pass the written portion of the driver's license
14 examination in accordance with section 286-108;
- 15 (3) Install an [~~ignition interlock device~~] intoxicant
16 control system on a vehicle to be used for the driving
17 demonstration portion of the driver's license
18 examination; and
- 19 (4) Submit to the director the following:
- 20 (A) Proof of passing the written portion of the
21 driver's license examination;



- 1 (B) Proof of installation of the [~~ignition interlock~~
2 ~~device~~] intoxicant control system;
- 3 (C) Proof of motor vehicle insurance; and
- 4 (D) Proof of a valid motor vehicle registration.

5 Upon receipt of proof of the requirements of paragraph (4), the
6 director shall issue an [~~ignition interlock~~] intoxicant control
7 system instruction permit that allows the person to drive a
8 category 1, 2, or 3 vehicle under section 286-102(b) that is
9 equipped with an [~~ignition interlock device~~] intoxicant control
10 system for the period as provided in section 286-110; provided
11 that a holder of the [~~ignition interlock~~] intoxicant control
12 system instruction permit for a category 3 vehicle shall be
13 accompanied by a person who is twenty-one years of age or older
14 and licensed to operate a category 3 vehicle. The licensed
15 person shall occupy a passenger seat beside the permit holder
16 while the category 3 vehicle equipped with an [~~ignition~~
17 ~~interlock device~~] intoxicant control system is being operated.
18 For the purposes of this section, "examiner of drivers" shall
19 have the same meaning as provided in section 286-2.

20 (d) Upon showing the [~~ignition interlock~~] intoxicant
21 control system instruction permit to the examiner of drivers, an



1 applicant may take the driving demonstration portion of the
2 driver's license examination in accordance with section 286-108.
3 Upon successful completion of the driving demonstration portion
4 of the driver's license examination, an applicant may apply to
5 the director for an ~~[interlock]~~ intoxicant control system
6 instruction permit pursuant to section 291E-44.5. If granted,
7 the ~~[interlock]~~ intoxicant control system instruction permit
8 shall expire as provided in section 286-106 or upon the end of
9 the revocation period, whichever occurs first.

10 (e) After a minimum period of five years from the issuance
11 of an ~~[interlock]~~ intoxicant control system instruction permit
12 under subsection (d), a person subject to a lifetime license
13 revocation for operating a motor vehicle while under the
14 influence of an intoxicant may file a petition in the district
15 court to reinstate the person's eligibility for license and
16 privilege to operate a vehicle without an ~~[ignition-interlock~~
17 ~~device-]~~ intoxicant control system. The petition shall be filed
18 with the clerk of the district court in the district in which
19 the arrest occurred and shall be accompanied by the required
20 filing fee for civil actions. A copy of the petition shall be



1 served on the prosecuting attorney in the county in which the
2 petition is filed. The petition shall include the following:

3 (1) A certified court abstract establishing that:

4 (A) The petitioner has no pending traffic matters,
5 outstanding fines, outstanding court costs, and
6 outstanding restitution; and

7 (B) The petitioner has not been convicted of any
8 violation of section 291E-66 during the five-year
9 period immediately preceding the petition;

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

16 (3) A certified statement from the director of
17 transportation establishing that:

18 (A) The petitioner has had an [~~ignition interlock~~
19 ~~device~~] intoxicant control system installed in a
20 vehicle without a cumulative break of more than



1 thirty days during the five years immediately
2 preceding the petition; and

3 (B) The petitioner has not attempted to operate a
4 vehicle with .04 or more grams of alcohol per two
5 hundred ten liters of breath or its equivalent
6 measure per the device installed during the two
7 years immediately preceding the petition;

8 (4) A certificate of service demonstrating the place,
9 time, and manner of service of the petition on the
10 prosecuting attorney;

11 (5) A certified record from the Hawaii Criminal Justice
12 Information System that shows the petitioner's current
13 criminal history record;

14 (6) A statement from the petitioner establishing where the
15 petitioner has resided since the [~~ignition interlock~~]
16 intoxicant control system permit was issued;

17 (7) A statement from the petitioner as to whether the
18 petitioner has undergone substance abuse assessment
19 and treatment and the outcome of this assessment and
20 treatment; and

21 (8) A proposed order.



1 Within ten days of service of the petition, the prosecuting
2 attorney may submit a written request for a hearing on the
3 petition. The district court shall set a hearing and the
4 prosecuting attorney shall serve notice of the hearing upon the
5 petitioner at the petitioner's address shown on the petition and
6 in accordance with the applicable court rules pertaining to
7 service of civil process. The prosecuting attorney shall appear
8 at the hearing on the petition and may offer evidence and
9 argument in support of or against the granting of the petition.
10 If the requirements of paragraphs (1) through (8) are met and it
11 appears to the court that the petitioner no longer poses a
12 danger to other persons using streets or highways and is not
13 likely to operate a vehicle under the influence of an
14 intoxicant, the district court shall grant the petition and
15 issue an order declaring the person eligible for relicensing and
16 reregistration, if applicable. In making its decision, the
17 court, in addition to any other evidence, may consider the
18 petitioner's [~~ignition interlock~~] intoxicant control system
19 program driving records and history. If the prosecuting
20 attorney fails to submit a timely request for a hearing, and the
21 requirements of paragraphs (1) through (8) are met, the district



1 court shall grant the petition and issue an order declaring the
2 petitioner eligible for relicensing and reregistration, if
3 applicable. If the court denies the petition, the person may
4 file another petition under this subsection no sooner than one
5 year from the date of the court order."

6 SECTION 14. Section 291E-62, Hawaii Revised Statutes, is
7 amended as follows:

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

9 "(a) No person whose license and privilege to operate a
10 vehicle have been revoked, suspended, or otherwise restricted
11 pursuant to this section or to part III or section 291E-61 or
12 291E-61.5, or to part VII or part XIV of chapter 286 or section
13 200-81, 291-4, 291-4.4, 291-4.5, or 291-7 as those provisions
14 were in effect on December 31, 2001, shall operate or assume
15 actual physical control of any vehicle:

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

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

20 (3) Without installing an [~~ignition interlock device~~]
21 intoxicant control system required by this chapter; or



1 (4) With an [~~ignition interlock~~] intoxicant control system
2 permit unless the person has the [~~ignition interlock~~]
3 intoxicant control system permit and a valid State of
4 Hawaii identification card in the person's immediate
5 possession."

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

7 (c) Any person convicted of violating this section shall
8 be sentenced as follows without possibility of probation or
9 suspension of sentence:

10 (1) For a first offense, or any offense not preceded
11 within a five-year period by conviction for an offense
12 under this section, section 291E-66, or section
13 291-4.5 as that section was in effect on December 31,
14 2001:

15 (A) A term of imprisonment of not less than three
16 consecutive days but not more than thirty days;

17 (B) A fine of not less than \$250 but not more than
18 \$1,000;

19 (C) Revocation of license and privilege to operate a
20 vehicle for an additional year; and



- 1 (D) Loss of the privilege to operate a vehicle
2 equipped with an [~~ignition interlock device,~~]
3 intoxicant control system, if applicable;
- 4 (2) For an offense that occurs within five years of a
5 prior conviction for an offense under this section,
6 section 291E-66, or section 291-4.5 as that section
7 was in effect on December 31, 2001:
- 8 (A) Thirty days imprisonment;
9 (B) A \$1,000 fine;
10 (C) Revocation of license and privilege to operate a
11 vehicle for an additional two years; and
12 (D) Loss of the privilege to operate a vehicle
13 equipped with an [~~ignition interlock device,~~]
14 intoxicant control system, if applicable; and
- 15 (3) For an offense that occurs within five years of two or
16 more prior convictions for offenses under this
17 section, section 291E-66, or section 291-4.5 as that
18 section was in effect on December 31, 2001, or any
19 combination thereof:
- 20 (A) One year imprisonment;
21 (B) A \$2,000 fine;



- 1 (C) Permanent revocation of the person's license and
2 privilege to operate a vehicle; and
- 3 (D) Loss of the privilege to operate a vehicle
4 equipped with an [~~ignition interlock device,~~]
5 intoxicant control system, if applicable."

6 SECTION 15. Section 291E-66, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[~~+~~]§291E-66[~~-~~] Circumvention of, or tampering with, an
9 [~~ignition interlock device~~] intoxicant control system by a
10 person who has been restricted to operating a vehicle equipped
11 with an [~~ignition interlock device,~~] intoxicant control system;
12 penalties. (a) No person whose driving privileges have been
13 restricted to operating a vehicle equipped with an [~~ignition~~
14 ~~interlock device~~] intoxicant control system shall knowingly:

- 15 (1) Request, solicit, direct, or authorize another person
16 to blow into an [~~ignition interlock device~~] intoxicant
17 control system or start a vehicle equipped with the
18 device for the purpose of providing an operable
19 vehicle to a person who has been restricted by law to
20 operating only a vehicle so equipped; or



1 (2) Tamper with an [~~ignition interlock device~~] intoxicant
2 control system with the intent to render it inaccurate
3 or inoperable.

4 (b) Any person required under subsection (a) to drive
5 using an [~~ignition interlock device,~~] intoxicant control system,
6 who violates subsection (a) shall be sentenced without
7 possibility of probation or suspension of sentence as follows:

8 (1) For a first offense, or any offense not preceded
9 within a five-year period by conviction under this
10 section or section 291E-62(a)(3):

11 (A) A term of imprisonment of not less than three
12 consecutive days but not more than thirty days;

13 (B) A fine of not less than \$250 but not more than
14 \$1,000; and

15 (C) Loss of the privilege to operate a vehicle
16 equipped with an [~~ignition interlock device,~~]
17 intoxicant control system;

18 (2) For an offense that occurs within five years of a
19 prior conviction for an offense under this section or
20 section 291E-62(a)(3):

21 (A) Thirty days imprisonment;



- 1 (B) A \$1,000 fine; and
- 2 (C) Loss of the privilege to operate a vehicle
- 3 equipped with an [~~ignition interlock device;~~]
- 4 intoxicant control system; and
- 5 (3) For an offense that occurs within five years of two or
- 6 more prior convictions for offenses under this section
- 7 or section 291E-62(a)(3), or any combination thereof:
- 8 (A) One year imprisonment;
- 9 (B) A \$2,000 fine; and
- 10 (C) Loss of the privilege to operate a vehicle
- 11 equipped with an [~~ignition interlock device.~~]
- 12 intoxicant control system."

13 SECTION 16. Section 291E-67, Hawaii Revised Statutes, is
14 amended by amending its title and subsections (a) and (b) to
15 read as follows:

16 "[~~+~~§291E-67 [~~+~~] **Assisting or abetting the circumvention**
17 **of, or tampering with, an [~~ignition interlock device;~~]**
18 **intoxicant control system; penalties.** (a) No person shall
19 knowingly:

- 20 (1) Blow into, access, otherwise interact with, or start a
- 21 vehicle equipped with an [~~ignition interlock device~~]



1 intoxicant control system for the purposes of
2 providing an operable vehicle to another person who
3 has been restricted by law to operating only a vehicle
4 equipped with an [~~ignition interlock device,~~]
5 intoxicant control system;

6 (2) Tamper with an [~~ignition interlock device~~] intoxicant
7 control system with the intent to render it inaccurate
8 or inoperable to permit another person, who has been
9 restricted by law to operating only a vehicle equipped
10 with an [~~ignition interlock device,~~] intoxicant
11 control system, to operate the vehicle; or

12 (3) Rent, lease, or lend a vehicle to another person who
13 has been restricted by law to operating only vehicles
14 equipped with an [~~ignition interlock device,~~]
15 intoxicant control system, when the rented, leased, or
16 loaned vehicle is not equipped with a functioning
17 certified [~~ignition interlock device.~~] intoxicant
18 control system.

19 (b) Subsection (a) shall not apply to any act taken for
20 the purpose of safety or mechanical repair of the device;
21 provided that the person who is restricted to operating a



1 vehicle equipped with the [~~interlock device~~] intoxicant control
2 system does not operate the vehicle."

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

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

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



Report Title:

Traffic Safety; Ignition Interlock Device or Other Monitoring System or Technology; Motor Vehicles; Substance Abuse; Sobriety Program

Description:

Expands ignition interlock system to include other alternative systems or technology that monitors a driver's alcohol concentration. Replacing the term "ignition interlock" with "intoxicant control system". Requires that the revocation of license period be tolled for any period in which the person does not have an intoxicant control system installed on a vehicle owned or operated by the person. Establishes requirements for removal of the intoxicant control system. Allows a defendant to enroll in an alcohol or substance abuse education or treatment program, or a sobriety program. (SD1)

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

