

JAN 17 2020

---

---

# A BILL FOR AN ACT

RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN  
INTOXICANT.

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

1           SECTION 1. The legislature finds that in 2013, the  
2 National Transportation Safety Board recommended that all fifty  
3 states adopt a blood alcohol concentration or BAC cutoff of  
4 0.05, compared to the 0.08 standard. According to the National  
5 Transportation Safety Board, lowering the rate to 0.05 would  
6 save about five hundred to eight hundred lives annually.

7           Further, according to the National Transportation Safety  
8 Board, a driver with a BAC of 0.05 would be affected by  
9 exaggerated behavior, loss of small-muscle control and eye  
10 focus, impaired judgment, lowered alertness, and release of  
11 inhibition. This would result in difficulty steering and  
12 reduced coordination, ability to track moving objects, and  
13 response to emergency driving situations. The legislature  
14 therefore further finds that lowering the threshold BAC cutoff  
15 to 0.05 would save lives, prevent catastrophic injuries, and  
16 decrease medical costs.



1           Accordingly, the purpose of this Act is to lower the  
2 threshold blood alcohol concentration from 0.08 to 0.05 for the  
3 offenses of operating a vehicle under the influence of an  
4 intoxicant and habitually operating a vehicle under the  
5 influence of an intoxicant.

6           SECTION 2. Section 291E-3, Hawaii Revised Statutes, is  
7 amended by amending subsections (a) and (b) to read as follows:

8           "(a) In any criminal prosecution for a violation of  
9 section 291E-61 or 291E-61.5 or in any proceeding under part  
10 III:

11           (1) [~~-.08~~] .05 or more grams of alcohol per one hundred  
12 milliliters or cubic centimeters of the person's  
13 blood;

14           (2) [~~-.08~~] .05 or more grams of alcohol per two hundred ten  
15 liters of the person's breath; or

16           (3) The presence of one or more drugs in an amount  
17 sufficient to impair the person's ability to operate a  
18 vehicle in a careful and prudent manner,

19 within three hours after the time of the alleged violation as  
20 shown by chemical analysis or other approved analytical  
21 techniques of the person's blood, breath, or urine shall be



1 competent evidence that the person was under the influence of an  
2 intoxicant at the time of the alleged violation.

3 (b) In any criminal prosecution for a violation of section  
4 291E-61 or 291E-61.5, the amount of alcohol found in the  
5 defendant's blood or breath within three hours after the time of  
6 the alleged violation as shown by chemical analysis or other  
7 approved analytical techniques of the defendant's blood or  
8 breath shall be competent evidence concerning whether the  
9 defendant was under the influence of an intoxicant at the time  
10 of the alleged violation and shall give rise to the following  
11 presumptions:

12 (1) If there were [~~.05~~] .02 or less grams of alcohol per  
13 one hundred milliliters or cubic centimeters of  
14 defendant's blood or [~~.05~~] .02 or less grams of  
15 alcohol per two hundred ten liters of defendant's  
16 breath, it shall be presumed that the defendant was  
17 not under the influence of alcohol at the time of the  
18 alleged violation; and

19 (2) If there were in excess of [~~.05~~] .02 grams of alcohol  
20 per one hundred milliliters or cubic centimeters of  
21 defendant's blood or [~~.05~~] .02 grams of alcohol per



1 two hundred ten liters of defendant's breath, but less  
2 than [~~.08~~] .05 grams of alcohol per one hundred  
3 milliliters or cubic centimeters of defendant's blood  
4 or [~~.08~~] .05 grams of alcohol per two hundred ten  
5 liters of defendant's breath, that fact may be  
6 considered with other competent evidence in  
7 determining whether the defendant was under the  
8 influence of alcohol at the time of the alleged  
9 violation, but shall not of itself give rise to any  
10 presumption."

11 SECTION 3. Section 291E-61, Hawaii Revised Statutes, is  
12 amended by amending subsection (a) to read as follows:

13 "(a) A person commits the offense of operating a vehicle  
14 under the influence of an intoxicant if the person operates or  
15 assumes actual physical control of a vehicle:

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



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

4           (3) With [~~.08~~] .05 or more grams of alcohol per two  
5           hundred ten liters of breath; or

6           (4) With [~~.08~~] .05 or more grams of alcohol per one  
7           hundred milliliters or cubic centimeters of blood."

8           SECTION 4. Section 291E-61.5, Hawaii Revised Statutes, is  
9           amended by amending subsection (a) to read as follows:

10           "(a) A person commits the offense of habitually operating  
11           a vehicle under the influence of an intoxicant if:

12           (1) The person is a habitual operator of a vehicle while  
13           under the influence of an intoxicant; and

14           (2) The person operates or assumes actual physical control  
15           of a vehicle:

16           (A) While under the influence of alcohol in an amount  
17           sufficient to impair the person's normal mental  
18           faculties or ability to care for the person and  
19           guard against casualty;



# S.B. NO. 2168

- 1           (B) While under the influence of any drug that
- 2                   impairs the person's ability to operate the
- 3                   vehicle in a careful and prudent manner;
- 4           (C) With [~~-.08~~] .05 or more grams of alcohol per two
- 5                   hundred ten liters of breath; or
- 6           (D) With [~~-.08~~] .05 or more grams of alcohol per one
- 7                   hundred milliliters or cubic centimeters of
- 8                   blood."

9           SECTION 5. This Act does not affect rights and duties that  
 10 matured, penalties that were incurred, and proceedings that were  
 11 begun before its effective date.

12           SECTION 6. Statutory material to be repealed is bracketed  
 13 and stricken. New statutory material is underscored.

14           SECTION 7. This Act shall take effect upon its approval.

15

INTRODUCED BY:   
 By Request



# S.B. NO. 2168

**Report Title:**

Maui County Package; Operating a Vehicle Under the Influence of an Intoxicant; Habitually Operating a Vehicle Under the Influence of an Intoxicant; BAC Cutoff

**Description:**

Lowers the threshold blood alcohol concentration from 0.08 to 0.05 for the offenses of Operating a Vehicle Under the Influence of an Intoxicant and Habitually Operating a Vehicle Under the Influence of an Intoxicant.

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

