

JAN 17 2020

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# A BILL FOR AN ACT

RELATING TO THE USE OF INTOXICANTS WHILE OPERATING A VEHICLE.

**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 cutoff of 0.05  
4 compared to the 0.08 standard. According to the National  
5 Transportation Safety Board, lowering the blood alcohol  
6 concentration cutoff to 0.05 for the offense of operating a  
7 vehicle while under the influence of an intoxicant would save  
8 five hundred to eight hundred lives annually.

9           According to the National Transportation Safety Board, a  
10 driver with a blood alcohol concentration of 0.05 is typically  
11 affected by exaggerated behavior, loss of small-muscle control  
12 and eye focus, impaired judgment, lowered alertness, and release  
13 of inhibition. This results in reduced coordination, reduced  
14 ability to track moving objects, difficulty steering, and  
15 reduced response to emergency driving situations.



1           The legislature further finds that lowering the threshold  
2 of blood alcohol concentration cutoff to 0.05 will save lives,  
3 prevent catastrophic injuries, and decrease medical costs.

4           Accordingly, the purpose of this Act is to lower the  
5 threshold of blood-alcohol content for the offense of operating  
6 a vehicle while under the influence of an intoxicant.

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

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

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

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

17           (3) The presence of one or more drugs in an amount  
18 sufficient to impair the person's ability to operate a  
19 vehicle in a careful and prudent manner,  
20 within three hours after the time of the alleged violation as  
21 shown by chemical analysis or other approved analytical



1 techniques of the person's blood, breath, or urine shall be  
2 competent evidence that the person was under the influence of an  
3 intoxicant at the time of the alleged violation.

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

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

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



1 defendant's blood or [~~.05~~] .02 grams of alcohol per  
2 two hundred ten liters of defendant's breath, but less  
3 than [~~.08~~] .05 grams of alcohol per one hundred  
4 milliliters or cubic centimeters of defendant's blood  
5 or [~~.08~~] .05 grams of alcohol per two hundred ten  
6 liters of defendant's breath, that fact may be  
7 considered with other competent evidence in  
8 determining whether the defendant was under the  
9 influence of alcohol at the time of the alleged  
10 violation, but shall not of itself give rise to any  
11 presumption."

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

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

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



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- 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;



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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.

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INTRODUCED BY:

*M. N. ...*  
By Request



# S.B. NO. 2177

**Report Title:**

Hawaii State Association of Counties (HSAC) Package; Operating a Vehicle Under the Influence of an Intoxicant

**Description:**

Lowers the threshold of blood alcohol concentration for the offense of operating a vehicle while 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.*

