

JAN 18 2019

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# A BILL FOR AN ACT

RELATING TO INTOXICANTS.

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

1           SECTION 1. The legislature finds that there is a need to  
2 amend the definition of "drug" for offenses under chapter 291E,  
3 Hawaii Revised Statutes, involving the use of intoxicants while  
4 operating a vehicle. For example, in order to convict an  
5 offender of the offense of operating a vehicle under the  
6 influence of an intoxicant when the intoxicant is a drug under  
7 section 291E-61(a)(2), Hawaii Revised Statutes, the prosecution  
8 must prove beyond a reasonable doubt that:

- 9           (1) The person was operating a vehicle; and  
10           (2) The person was under the influence of any drug that  
11           impaired the person's ability to operate the vehicle  
12           in a careful and prudent manner.

13           However, because the term "drug" is defined for purposes of  
14 chapter 291E, Hawaii Revised Statutes, as any controlled  
15 substance listed in schedules I through IV of chapter 329,  
16 Hawaii Revised Statutes, it can be difficult for the prosecution  
17 to prove the second prong of the foregoing offense because many



1 drugs like kava and certain muscle relaxants can cause serious  
2 impairment of drivers, but are not scheduled as controlled  
3 substances. In addition, there have been recent attempts at the  
4 federal and state levels to remove marijuana and  
5 tetrahydrocannabinols from the schedule of controlled  
6 substances. If these attempts were to succeed, persons found to  
7 be driving while impaired by marijuana could not be prosecuted  
8 under Hawai'i's existing offense of operating a vehicle under the  
9 influence of an intoxicant.

10 The legislature further finds that the process of placing a  
11 drug or substance on the schedule of controlled substances does  
12 not respond quickly enough to emerging drugs. Synthetic drugs  
13 can be manufactured very rapidly and can avoid law enforcement  
14 when they are created by changing the chemical composition of an  
15 existing drug; in this manner, synthetic drugs like "spice" and  
16 "bath salts" evade the scheduling process. In order to quickly  
17 adapt and prosecute offenders using new emerging drugs, law  
18 enforcement should not be forced to rely solely on the  
19 controlled substance schedules for certain offenses.

20 The purpose of this Act is to amend the definitions of  
21 "drug" and "substance" and add the definition of "substance



1 abuse" for purposes of operating a vehicle under the influence  
2 of an intoxicant violations.

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

5 1. By adding the definition of "substance abuse" to be  
6 appropriately inserted and to read:

7 "Substance abuse" means the use or misuse of alcohol, any  
8 drug on schedules I through IV of chapter 329, or any substance,  
9 as defined in this section, to an extent deemed deleterious or  
10 detrimental to the user, to others, or to society."

11 2. By amending the definition of "drug" to read:

12 "Drug" means any controlled substance, as defined and  
13 enumerated in schedules I through IV of chapter 329, or its  
14 metabolites[-], or any substance that, when taken into the human  
15 body, can impair the ability of a person to operate a vehicle  
16 safely."

17 3. By amending the definition of "substance" to read:

18 "Substance" [~~and "substance abuse" have the same meanings~~  
19 ~~as provided in section 321-191.] means any plant, medication,~~  
20 poison, natural or synthetic chemical, or any compound, or  
21 combination of these, and includes but is not limited to central



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1 nervous system depressants, central nervous system stimulants,  
2 hallucinogens, dissociative anesthetics, narcotic analgesics,  
3 inhalants, and cannabis."

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

7 SECTION 4. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

*Hal Rhoads*



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**Report Title:**

Transportation; Drugs; Intoxicants; Operating a Vehicle;  
Definition

**Description:**

Adds the definition of "substance abuse" and amends the definitions of "drug" and "substance" for purposes of operating a vehicle under the influence of an intoxicant violations.

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