
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 protecting public
2 safety is a primary duty of government. Operating a vehicle
3 while impaired is dangerous for the driver, passengers in the
4 car, and all others that are on the road, and accordingly, the
5 legislature has criminalized the operation of a vehicle while
6 under the influence of an intoxicant.

7 The legislature further finds that certain substances not
8 listed in schedules I through IV of chapter 329, Hawaii Revised
9 Statutes, like kava and certain muscle relaxants, can cause
10 serious impairment of drivers, and that driving while under the
11 impairment of one of these substances is not prohibited by law.
12 In addition, the process of placing a drug or substance on the
13 schedule of controlled substances does not respond quickly
14 enough to emerging drugs. Synthetic drugs can be manufactured
15 very rapidly and avoid law enforcement when they are created by
16 changing the chemical composition of an existing drug. In this
17 manner, synthetic drugs like "spice" and "bath salts" evade the



1 scheduling process. In order to quickly adapt and prosecute
2 offenders using new emerging drugs, law enforcement should not
3 be forced to rely solely on the controlled substances schedules
4 for certain offenses.

5 The purpose of this Act is to promote public safety and
6 encourage safe driving by establishing the offense of operating
7 a vehicle while impaired by a lesser intoxicant.

8 SECTION 2. Chapter 291E, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§291E- Operating a vehicle while impaired by a lesser
12 intoxicant. (a) A person commits the offense of operating a
13 vehicle while impaired by a lesser intoxicant if the person
14 operates or assumes actual physical control of a vehicle while
15 impaired by a lesser intoxicant that demonstrably impairs the
16 person's ability to operate the vehicle in a careful and prudent
17 manner.

18 (b) A person committing the offense of operating a vehicle
19 while impaired by a lesser intoxicant shall be guilty of a petty
20 misdemeanor and shall be fined not more than \$1,000 or
21 imprisoned not more than thirty days, or both.



1 (c) Each law enforcement agency that investigates or
2 arrests persons for violating this section shall collect, make
3 public, and, on an annual basis, report to the legislature data
4 on:

5 (1) The number of persons investigated for violating this
6 section;

7 (2) The number of persons arrested for violating this
8 section following an investigation;

9 (3) The number of persons arrested that take a blood or
10 urine test to detect a lesser intoxicant;

11 (4) The number of blood or urine tests taken pursuant to
12 paragraph (3) that detect the presence of a lesser
13 intoxicant in the blood or urine;

14 (5) The number of blood or urine tests taken pursuant to
15 paragraph (3) that do not detect the presence of a
16 lesser intoxicant in the blood or urine; and

17 (6) A statistical breakdown of the types of lesser
18 intoxicants detected in blood or urine tests taken by
19 those arrested for violating this section.

20 (d) The criminal justice data center shall collect, make
21 public, and, on an annual basis, report to the legislature the



1 number of convictions for the offense of operating a vehicle
2 while impaired by a lesser intoxicant.

3 (e) As used in this section, "lesser intoxicant" means any
4 plant, medication, poison, natural or synthetic chemical, or any
5 compound or combination of these, and includes but is not
6 limited to central nervous system depressants, central nervous
7 system stimulants, hallucinogens, dissociative anesthetics,
8 narcotic analgesics, or inhalants. "Lesser intoxicant" does not
9 include alcohol or any drug defined and enumerated in schedules
10 I through IV of chapter 329."

11 SECTION 3. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun before its effective date.

14 SECTION 4. New statutory material is underscored.

15 SECTION 5. This Act shall take effect on July 1, 2050;
16 provided that on June 30, 2022, this Act shall be repealed.



Report Title:

Operating a Vehicle While Impaired by a Lesser Intoxicant

Description:

Establishes the offense of operating a vehicle while impaired by a lesser intoxicant. Requires law enforcement and the Criminal Justice Data Center to collect, make public, and report on certain data relating to the offense. (SB641 HD2)

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