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## A BILL FOR AN ACT

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

4       "§291E-       Ignition interlock device; compliance; driver's  
5       license eligibility. (a) Any person whose driver's license has  
6       been revoked pursuant to section 291E-41 or who has been  
7       convicted under section 291E-61 or 291E-61.5, and who has an  
8       ignition interlock device installed in any vehicle operated by  
9       the person, shall be eligible for a driver's license following  
10       the expiration of the applicable revocation period only upon  
11       proof of compliance to the director of transportation that the  
12       person:

13       (1) For the first offense, or any offense not preceded  
14       within ten years of a prior offense, has had a period  
15       of sixty consecutive days without any violations;



1        (2) For an offense that occurs within ten years of a prior  
2        offense, has had a period of ninety consecutive days  
3        without any violations; or

4        (3) For a habitual offense and subsequent offenses that  
5        occur within ten years of two or more prior offenses,  
6        has had a period of one-hundred eighty consecutive  
7        days without any violations.

8        (b) A person violates this section by:

9        (1) Providing a sample of .04 or more grams of alcohol per  
10       two hundred ten liters of breath when starting the  
11       vehicle, unless a subsequent test performed within ten  
12       minutes registers a breath alcohol concentration lower  
13       than .02 and the digital image confirms the same  
14       person provided both samples;

15       (2) Providing a sample of .04 or more grams of alcohol per  
16       two hundred ten liters of breath on a rolling retest,  
17       unless a subsequent test performed within ten minutes  
18       registers a breath alcohol concentration lower than  
19       .02 and the digital image confirms the same person  
20       provided both samples;

21       (3) Failing to provide a rolling retest;



1       (4) Violating section 291E-66; or

2       (5) Failing to provide a clear photo of the person when  
3       the person blows into the ignition interlock device.

4       (c) Any violation that occurs during the period in which  
5       the ignition interlock device is installed shall constitute as  
6       noncompliance. The time required to prove compliance shall  
7       commence again after any violation until compliance is proven.

8       (d) The requirements of subsection (a) shall be in  
9       addition to any sanction or penalty imposed pursuant to section  
10      291E-41, 291E-61, or 291E-61.5. The requirements of this  
11      section shall be an administrative requirement of being eligible  
12      to apply for a driver's license.

13      (e) Notwithstanding any provision of this chapter to the  
14      contrary, any person whose driver's license has been revoked  
15      pursuant to section 291E-41 or who has been convicted under  
16      section 291E-61 or 291E-61.5, shall be deemed eligible to apply  
17      for a driver's license                      months following the  
18      expiration of the revocation period."

19      SECTION 2. Section 291E-61, Hawaii Revised Statutes, is  
20      amended by amending subsection (b) to read as follows:



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

5       (1) Except as provided in paragraph (4), for the first  
6 offense, or any offense not preceded within a ten-year  
7 period by a conviction for an offense under this  
8 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~~] Revocation of license to  
14 operate a vehicle[+] for no less than one year  
15 and no more than eighteen months;

16       (C) Installation during the revocation period of an  
17 ignition interlock device on all vehicles  
18 operated by the person;

19       (D) Any one or more of the following:

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



- 1 (ii) No less than forty-eight hours and no more  
2 than five days of imprisonment; or  
3 (iii) A fine of no less than \$250 but no more than  
4 \$1,000;
- 5 (E) A surcharge of \$25 to be deposited into the  
6 neurotrauma special fund; and  
7 (F) A surcharge, if the court so orders, of up to \$25  
8 to be deposited into the trauma system special  
9 fund;
- 10 (2) For an offense that occurs within ten years of a prior  
11 conviction for an offense under this section:
- 12 (A) A substance abuse program of at least thirty-six  
13 hours, including education and counseling or  
14 other comparable programs deemed appropriate by  
15 the court;
- 16 (B) Revocation of license to operate a vehicle for no  
17 less than two years but no more than three years;
- 18 (C) Installation during the revocation period of an  
19 ignition interlock device on all vehicles  
20 operated by the person;
- 21 (D) Either one of the following:



- 1 (i) No less than two hundred forty hours of  
2 community service work; or  
3 (ii) No less than five days but no more than  
4 thirty days of imprisonment, of which at  
5 least forty-eight hours shall be served  
6 consecutively;
- 7 (E) A fine of no less than \$1,000 but no more than  
8 \$3,000, to be deposited into the state drug and  
9 alcohol toxicology testing laboratory special  
10 fund;
- 11 (F) A surcharge of \$25 to be deposited into the  
12 neurotrauma special fund; and
- 13 (G) A surcharge of up to \$50, if the court so orders,  
14 to be deposited into the trauma system special  
15 fund;
- 16 (3) In addition to a sentence imposed under paragraphs (1)  
17 and (2), any person eighteen years of age or older who  
18 is convicted under this section and who operated a  
19 vehicle with a passenger, in or on the vehicle, who  
20 was younger than fifteen years of age, shall be  
21 sentenced to an additional mandatory fine of \$500 and



1 an additional mandatory term of imprisonment of forty-  
2 eight hours; provided that the total term of  
3 imprisonment for a person convicted under this  
4 paragraph shall not exceed the maximum term of  
5 imprisonment provided in paragraph (1) or (2), as  
6 applicable. Notwithstanding paragraphs (1) and (2),  
7 the revocation period for a person sentenced under  
8 this paragraph shall be no less than two years;

9 (4) In addition to a sentence imposed under paragraph (1),  
10 for a first offense under this section, or an offense  
11 not preceded within a ten-year period by a conviction  
12 for an offense, any person who is convicted under this  
13 section and was a highly intoxicated driver at the  
14 time of the subject incident shall be sentenced to an  
15 additional mandatory term of imprisonment for forty-  
16 eight consecutive hours and an additional mandatory  
17 revocation period of six months; provided that the  
18 total term of imprisonment for a person convicted  
19 under this paragraph shall not exceed the maximum term  
20 of imprisonment provided in paragraph (1).

21 Notwithstanding paragraph (1), the revocation period



1 for a person sentenced under this paragraph shall be  
2 no less than eighteen months;

3 (5) In addition to a sentence under paragraph (2), for an  
4 offense that occurs within ten years of a prior  
5 conviction for an offense under this section, any  
6 person who is convicted under this section and was a  
7 highly intoxicated driver at the time of the subject  
8 incident shall be sentenced to an additional mandatory  
9 term of imprisonment of ten consecutive days and an  
10 additional mandatory revocation period of one year;  
11 provided that the total term of imprisonment for a  
12 person convicted under this paragraph shall not exceed  
13 the maximum term of imprisonment provided in paragraph  
14 (2), as applicable. Notwithstanding paragraph (2),  
15 the revocation period for a person sentenced under  
16 this paragraph shall be no less than three years;  
17 [and]

18 (6) A person sentenced pursuant to paragraph (1)(B) may  
19 file a motion for early termination of the applicable  
20 revocation period if the person:





1           (A) Was not sentenced to any additional mandatory  
2           revocation period pursuant to paragraphs (3) or  
3           (4);

4           (B) Actually installed and maintained an ignition  
5           interlock device on all vehicles operated by the  
6           person for a continuous period of six months,  
7           after which the person maintained the ignition  
8           interlock device on all vehicles operated by the  
9           person for a continuous period of three months  
10           without violation, as that term is defined in  
11           rules established by the department of  
12           transportation; and

13           (C) The person has complied with all other sentencing  
14           requirements.

15           Nothing in this paragraph shall require a court to  
16           grant early termination of the revocation period if  
17           the court finds that continued use of the ignition  
18           interlock device will further the person's  
19           rehabilitation or compliance with this section; and

20           ~~[-(6)-]~~ (7) If the person demonstrates to the court that the  
21           person:



1 (A) Does not own or have the use of a vehicle in  
2 which the person can install an ignition  
3 interlock device during the revocation period; or

4 (B) Is otherwise unable to drive during the  
5 revocation period,

6 the person shall be absolutely prohibited from driving  
7 during the period of applicable revocation provided in  
8 paragraphs (1) to ~~[(3);]~~ (5); provided that the person  
9 shall be sentenced to the maximum license revocation  
10 period, the court shall not issue an ignition  
11 interlock permit pursuant to subsection (i), and the  
12 person shall be subject to the penalties provided by  
13 section 291E-62 if the person drives during the  
14 applicable revocation period."

15 SECTION 3. Act 216, Session Laws of Hawaii 2021, is  
16 amended by amending section 10 to read as follows:

17 "SECTION 10. This Act shall take effect on July 1,  
18 2021~~[-]~~; provided that the amendments made to sections 291E-61  
19 and 291E-61.5, Hawaii Revised Statutes, by sections 5 and 6,  
20 respectively, of this Act shall not be repealed when those



1 sections are reenacted on June 30, 2026, pursuant to section 11  
2 of Act 196, Session Laws of Hawaii 2021."

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

6 SECTION 5. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 6. This Act shall take effect upon its approval;  
9 provided that the amendments made to section 291E-61, Hawaii  
10 Revised Statutes, by section 2 of this Act shall not be repealed  
11 when that section is reenacted on June 30, 2026, pursuant to  
12 section 11 of Act 196, Session Laws of Hawaii 2021.

13



**Report Title:**

Operating a Vehicle Under the Influence of an Intoxicant;  
Ignition Interlock Device; Driver's License Revocation

**Description:**

Requires proof of compliance with ignition interlock laws to be eligible for a driver's license following the license revocation period. Amends the driver's license revocation period for first time offenders convicted of operating a vehicle under the influence of an intoxicant and people who do not own or have a vehicle or are unable to drive. Allows early termination of driver's license revocation. (HD1)

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

