

JAN 19 2022

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 rate to 0.05 would
6 save approximately five hundred to eight hundred lives annually.
7 According to the National Transportation Safety Board, a driver
8 with a Blood Alcohol Concentration 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 reduced coordination, reduced
12 ability to track moving objects, difficulty steering, and
13 reduced response to emergency driving situations. The
14 legislature further finds that lowering the threshold of Blood
15 Alcohol Concentration cutoff to 0.05 would save lives, prevent
16 catastrophic injuries, and decrease medical costs.



1 The purpose of this Act is to lower the threshold of blood
2 alcohol content for the offense of operating a vehicle while
3 under the influence of an intoxicant.

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

6 "**§291E-3 Evidence of intoxication.** (a) In any criminal
7 prosecution for a violation of section 291E-61 or 291E-61.5 or
8 in any proceeding under part III:

9 (1) [~~.08~~] .05 or more grams of alcohol per one hundred
10 milliliters or cubic centimeters of the person's
11 blood;

12 (2) [~~.08~~] .05 or more grams of alcohol per two hundred ten
13 liters of the person's breath; or

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

17 within three hours after the time of the alleged violation as
18 shown by chemical analysis or other approved analytical
19 techniques of the person's blood, breath, or urine shall be
20 competent evidence that the person was under the influence of an
21 intoxicant at the time of the alleged violation.



1 (b) In any criminal prosecution for a violation of section
2 291E-61 or 291E-61.5, the amount of alcohol found in the
3 defendant's blood or breath within three hours after the time of
4 the alleged violation as shown by chemical analysis or other
5 approved analytical techniques of the defendant's blood or
6 breath shall be competent evidence concerning whether the
7 defendant was under the influence of an intoxicant at the time
8 of the alleged violation and shall give rise to the following
9 presumptions:

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

17 (2) If there were in excess of [~~.05~~] .02 grams of alcohol
18 per one hundred milliliters or cubic centimeters of
19 defendant's blood or [~~.05~~] .02 grams of alcohol per
20 two hundred ten liters of defendant's breath, but less
21 than [~~.08~~] .05 grams of alcohol per one hundred



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

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

11 (1) .15 or more grams of alcohol per one hundred
12 milliliters or cubic centimeters of the person's
13 blood; or

14 (2) .15 or more grams of alcohol per two hundred ten
15 liters of the person's breath,
16 within three hours after the time of the alleged violation as
17 shown by chemical analysis or other approved analytical
18 techniques of the person's blood or breath shall be competent
19 evidence that the person was a highly intoxicated driver at the
20 time of the alleged violation.



1 (d) Nothing in this section shall be construed as limiting
2 the introduction, in any criminal proceeding for a violation
3 under section 291E-61 or 291E-61.5 or in any proceeding under
4 part III, of relevant evidence of a person's alcohol
5 concentration or drug content obtained more than three hours
6 after an alleged violation; provided that the evidence is
7 offered in compliance with the Hawaii rules of evidence."

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

INTRODUCED BY: _____


By Request



S.B. NO. 2096

Report Title:

Maui County Council Package; Vehicles; Operation; Intoxicants

Description:

Lowers the threshold blood alcohol content for the offense of operating a vehicle while under the influence of an intoxicant.

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