
A BILL FOR AN ACT

RELATING TO THE DRUG AND ALCOHOL TOXICOLOGY TESTING LABORATORY.

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

1 SECTION 1. The legislature finds that Act 196, Session
2 Laws of Hawaii 2021, established the state drug and alcohol
3 toxicology testing laboratory special fund to support a state
4 drug and alcohol toxicology testing laboratory; specified that
5 moneys in the state highway fund may be expended for the cost of
6 establishing a state drug and alcohol toxicology testing
7 laboratory; required that fines imposed on offenders convicted
8 of certain offenses involving operating a vehicle under the
9 influence of an intoxicant be deposited into the state drug and
10 alcohol toxicology testing laboratory special fund; and required
11 the department of health to submit reports to the legislature on
12 expenditures from the state drug and alcohol toxicology testing
13 laboratory special fund.

14 The legislature also finds that Act 119, Session Laws of
15 Hawaii 2022, appropriated moneys from the state highway fund to
16 the state drug and alcohol toxicology testing laboratory special
17 fund for fiscal year 2022-2023; and authorized the department of



1 health to expend funds from the state drug and alcohol
2 toxicology testing laboratory special fund for the establishment
3 of the state drug and alcohol toxicology testing laboratory.

4 The legislature further finds that Act 120, Session Laws of
5 Hawaii 2022, appropriated moneys from the state highway fund to
6 the state drug and alcohol toxicology testing laboratory special
7 fund for fiscal year 2021-2022; and authorized the department of
8 health to expend these funds from the state drug and alcohol
9 toxicology testing laboratory special fund for the establishment
10 of the state drug and alcohol toxicology testing laboratory.

11 The legislature recognizes, however, that there is an
12 immediate and urgent need for blood alcohol testing, and the
13 department of health cannot fulfill these services at this time.
14 The city and county of Honolulu emergency services department is
15 currently able to conduct blood alcohol testing for all counties
16 and will be able to conduct drug testing for impaired driving
17 cases in the future if provided the funding.

18 The purpose of this Act is to:

- 19 (1) Specify that moneys in the state highway fund may be
20 expended for the cost of establishing and maintaining
21 a drug and alcohol toxicology testing laboratory;



1 (2) Rename the state drug and alcohol toxicology testing
2 laboratory, and its special fund, to remove the word
3 "state";

4 (3) Specify that moneys in the drug and alcohol toxicology
5 testing laboratory special fund shall be administered
6 and expended by the department of transportation or
7 appropriated as a grant-in-aid to the emergency
8 services department of a county with a population of
9 five hundred thousand or more; and

10 (4) Appropriate moneys from the state highway fund into
11 the drug and alcohol toxicology testing laboratory
12 special fund.

13 SECTION 2. Section 248-9, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) Moneys in the state highway fund may be expended for
16 the following purposes:

17 (1) To pay the costs of operation, maintenance, and repair
18 of the state highway system, including without
19 limitation, the cost of equipment and general
20 administrative overhead;



- 1 (2) To pay the costs of acquisition, including real
2 property and interests therein; planning; designing;
3 construction; and reconstruction of the state highway
4 system and bikeways, including without limitation, the
5 cost of equipment and general administrative overhead;
- 6 (3) To reimburse the general fund for interest on and
7 principal of general obligation bonds issued to
8 finance highway projects where the bonds are
9 designated to be reimbursable out of the state highway
10 fund;
- 11 (4) To pay the costs of construction, maintenance, and
12 repair of county roads; provided that none of the
13 funds expended on a county road or program shall be
14 federal funds when expenditure would cause a violation
15 of federal law or a federal grant agreement; and
- 16 (5) To pay the ~~cost~~ costs of establishing and
17 maintaining a ~~state~~ drug and alcohol toxicology
18 testing laboratory that is intended to support the
19 prosecution of offenses relating to operation of a
20 motor vehicle while under the influence of an
21 intoxicant."



1 SECTION 3. Section 291E-8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§291E-8[+]—~~State drug~~ Drug and alcohol toxicology
4 testing laboratory special fund; established. (a) There is
5 established in the state treasury a [state] drug and alcohol
6 toxicology testing laboratory special fund, into which shall be
7 deposited:

- 8 (1) All fines collected pursuant to
9 sections [+]291E-61(b)(2)(E)[+], 291E-61.5(c)(2)(C),
10 and 291E-62(c);
11 (2) Moneys appropriated by the legislature to the fund;
12 (3) Other grants and gifts made to the fund; and
13 (4) Any income and interest earned on the balance of the
14 fund.

15 (b) Moneys in the [state] drug and alcohol toxicology
16 testing laboratory special fund shall be administered and
17 expended by the department of [~~health~~] transportation, or
18 appropriated as a grant-in-aid to the emergency services
19 department of a county with a population of five hundred
20 thousand or more, to support a [state] drug and alcohol
21 toxicology testing laboratory."



1 SECTION 4. Section 291E-61, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

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

7 (1) Except as provided in paragraph (4), for the first
8 offense, or any offense not preceded within a ten-year
9 period by a conviction for an offense under this
10 section or section 291E-4(a):

11 (A) A fourteen-hour minimum substance abuse
12 rehabilitation program, including education and
13 counseling, or other comparable programs deemed
14 appropriate by the court;

15 (B) Revocation of license to operate a vehicle for no
16 less than one year and no more than eighteen
17 months;

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

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



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



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



1 sentenced to an additional mandatory fine of \$500 and
2 an additional mandatory term of imprisonment of
3 forty-eight hours; provided that the total term of
4 imprisonment for a person convicted under this
5 paragraph shall not exceed the maximum term of
6 imprisonment provided in paragraph (1) or (2), as
7 applicable. Notwithstanding paragraphs (1) and (2),
8 the revocation period for a person sentenced under
9 this paragraph shall be no less than two years;
10 (4) In addition to a sentence imposed under paragraph (1),
11 for a first offense under this section, or an offense
12 not preceded within a ten-year period by a conviction
13 for an offense, any person who is convicted under this
14 section and was a highly intoxicated driver at the
15 time of the subject incident shall be sentenced to an
16 additional mandatory term of imprisonment for
17 forty-eight consecutive hours and an additional
18 mandatory revocation period of six months; provided
19 that the total term of imprisonment for a person
20 convicted under this paragraph shall not exceed the
21 maximum term of imprisonment provided in paragraph



1 (1). Notwithstanding paragraph (1), the revocation
2 period for a person sentenced under this paragraph
3 shall be no less than eighteen months;

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

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 paragraph (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;
- 11 (C) Includes with [~~their~~] the person's motion for
12 early termination a certified court abstract
13 establishing that [~~they were~~] the person was not
14 sentenced to any additional mandatory revocation
15 period pursuant to paragraph (3) or (4);
- 16 (D) Includes with [~~their~~] the person's motion for
17 early termination a certified statement from the
18 director of transportation establishing that:
19 (i) The person installed and maintained an
20 ignition interlock device on all vehicles



- 1 operated by the person for a continuous
- 2 period of six months; and
- 3 (ii) After the six-month period, the person
- 4 maintained the ignition interlock device on
- 5 all vehicles operated by the person for a
- 6 continuous period of three months without
- 7 violation; and
- 8 (E) Has complied with all other sentencing
- 9 requirements.

10 Nothing in this paragraph shall require a court to
11 grant early termination of the revocation period if
12 the court finds that continued use of the ignition
13 interlock device will further the person's
14 rehabilitation or compliance with this section;

- 15 (7) If the person demonstrates to the court that the
- 16 person:
- 17 (A) Does not own or have the use of a vehicle in
- 18 which the person can install an ignition
- 19 interlock device during the revocation period; or
- 20 (B) Is otherwise unable to drive during the
- 21 revocation period,



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

10 (8) For purposes of this subsection, "violation" means:

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

18 (B) Providing a sample of .04 or more grams of
19 alcohol per two hundred ten liters of breath on a
20 rolling retest, unless a subsequent test
21 performed within ten minutes registers a breath



1 alcohol concentration lower than .02 and the
2 digital image confirms the same person provided
3 both samples;

4 (C) Failing to provide a rolling retest, unless an
5 acceptable test is performed within ten minutes;

6 (D) Violating section 291E-66; or

7 (E) Failing to provide a clear photo of the person
8 when the person blows into the ignition interlock
9 device."

10 SECTION 5. Section 291E-61.5, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) For a conviction under this section, the sentence
13 shall be either:

14 (1) An indeterminate term of imprisonment of five years;
15 or

16 (2) A term of probation of five years, with conditions to
17 include:

18 (A) Mandatory revocation of license to operate a
19 vehicle for a period no less than three years but
20 no more than five years, with mandatory
21 installation of an ignition interlock device in



1 all vehicles operated by the respondent during
2 the revocation period;

3 (B) No less than ten days imprisonment, of which at
4 least forty-eight hours shall be served
5 consecutively;

6 (C) A fine of no less than \$2,000 but no more than
7 \$5,000, to be deposited into the [state] drug and
8 alcohol toxicology testing laboratory special
9 fund;

10 (D) Referral to a certified substance abuse counselor
11 as provided in subsection (e);

12 (E) A surcharge of \$25 to be deposited into the
13 neurotrauma special fund; and

14 (F) A surcharge of up to \$50 to be deposited into the
15 trauma system special fund if the court so
16 orders.

17 In addition to the foregoing, any vehicle owned and operated by
18 the person committing the offense shall be subject to forfeiture
19 pursuant to chapter 712A."

20 SECTION 6. Section 291E-62, Hawaii Revised Statutes, is
21 amended by amending subsection (c) to read as follows:



1 "(c) Any person convicted of violating this section shall
2 be sentenced as follows without possibility of probation or
3 suspension of sentence:

4 (1) For a first offense, or any offense not preceded
5 within a ten-year period by conviction for an offense
6 under this section, section 291E-66, or
7 section 291-4.5 as that section was in effect on
8 December 31, 2001:

9 (A) A term of imprisonment of no less than three
10 consecutive days and no more than thirty days;

11 (B) A fine of no less than \$250 and no more than
12 \$1,000, to be deposited into the [state] drug and
13 alcohol toxicology testing laboratory special
14 fund; and

15 (C) Revocation of license and privilege to operate a
16 vehicle for an additional year;

17 (2) For an offense that occurs within ten years of a prior
18 conviction for an offense under this section, section
19 291E-66, or section 291-4.5 as that section was in
20 effect on December 1, 2001:

21 (A) Thirty days imprisonment;



1 (B) A \$1,000 fine, to be deposited into the [state]
2 drug and alcohol toxicology testing laboratory
3 special fund; and

4 (C) Revocation of license and privilege to operate a
5 vehicle for an additional two years;

6 (3) For an offense that occurs within ten years of two or
7 more prior convictions for offenses under this
8 section, section 291E-66, or section 291-4.5 as that
9 section was in effect on December 31, 2001, or any
10 combination thereof:

11 (A) No less than six months and no more than one year
12 imprisonment;

13 (B) A \$2,000 fine, to be deposited into the [state]
14 drug and alcohol toxicology testing laboratory
15 special fund; and

16 (C) Permanent revocation of the person's license and
17 privilege to operate a vehicle; and

18 (4) In addition to a sentence imposed under paragraphs (1)
19 through (3), any person who is convicted under this
20 section and also convicted under section 291E-61 or
21 291E-61.5, for an offense based on the same incident



1 or arising from the same episode, shall be sentenced
2 to terms of imprisonment for both offenses, which
3 shall be served consecutively."

4 SECTION 7. Section 706-643, Hawaii Revised Statutes, is
5 amended by amending subsection (2) to read as follows:

6 "(2) All fines and other final payments received by a
7 clerk or other officer of a court shall be accounted for, with
8 the names of persons making payment, and the amount and date
9 thereof, being recorded. All such funds shall be deposited with
10 the director of finance to the credit of the general fund of the
11 State. With respect to fines and bail forfeitures that are
12 proceeds of the wildlife revolving fund under section 183D-10.5;
13 fines that are proceeds of the [state] drug and alcohol
14 toxicology testing laboratory special fund under
15 sections [~~291E-61(b)(2)(C),~~] 291E-61(b)(2)(E),
16 291E-61.5(c)(2)(C), and 291E-62(c); and fines that are proceeds
17 of the compliance resolution fund under sections 26-9(o) and
18 431:2-410, the director of finance shall transmit the fines and
19 forfeitures to the respective funds."

20 SECTION 8. Act 196, Session Laws of Hawaii 2021, is
21 amended as follows:



1 1. By amending section 9 to read:

2 "SECTION 9. The ~~[state]~~ drug and alcohol toxicology
3 testing laboratory special fund established in section
4 ~~[291E-7]~~ 291E-8, Hawaii Revised Statutes, shall be abolished
5 and repealed on June 30, ~~[2026]~~ 2028, and any unencumbered
6 remaining balances shall lapse to the ~~[general fund.]~~ credit of
7 the state highway fund."

8 2. By amending section 11 to read:

9 "SECTION 11. This Act shall take effect on July 1, 2021;
10 provided that on June 30, ~~[2026]~~ 2028, sections 4, 5, 6, and 7
11 of this Act shall be repealed and ~~[section]~~ sections 291E-61,
12 291E-61.5, 291E-62, and 706-643, Hawaii Revised Statutes, shall
13 be reenacted in the form in which it read on the day before the
14 effective date of this Act."

15 SECTION 9. Act 216, Session Laws of Hawaii 2021, as
16 amended by Act 94, Session Laws of Hawaii 2022, is amended by
17 amending section 10 to read as follows:

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



1 sections are reenacted on June 30, [~~2026~~] 2028, pursuant to
2 section 11 of Act 196, Session Laws of Hawaii 2021[~~-~~], as
3 amended by section 8 of Act _____, Session Laws of Hawaii 2023."

4 SECTION 10. Act 94, Session Laws of Hawaii 2022, is
5 amended by amending section 7 to read as follows:

6 "SECTION 7. This Act shall take effect on January 1, 2023;
7 provided that the amendments made to sections 291E-61 and 291E-
8 62, Hawaii Revised Statutes, by sections 1 and 2, respectively,
9 of this Act shall not be repealed when those sections are
10 reenacted on June 30, [~~2026~~] 2028, pursuant to section 11 of
11 Act 196, Session Laws of Hawaii 2021[~~-~~], as amended by section 8
12 of Act _____, Session Laws of Hawaii 2023."

13 SECTION 11. There is appropriated out of the state highway
14 fund of the State of Hawaii, the sum of \$ _____ or so much
15 thereof as may be necessary for fiscal year 2023-2024 and the
16 same sum or so much as necessary for fiscal year 2024-2025 for
17 deposit into the drug and alcohol toxicology testing laboratory
18 special fund established by section 291E-8, Hawaii Revised
19 Statutes, as amended by section 3 of this Act.

20 SECTION 12. There is appropriated out of the drug and
21 alcohol toxicology testing laboratory special fund the sum of



1 \$ or so much thereof as may be necessary for fiscal
2 year 2023-2024 and the same sum or so much as necessary for
3 fiscal year 2024-2025 for the establishment and maintenance of a
4 drug and alcohol toxicology testing laboratory, including the
5 costs of laboratory instrumentation, facility renovation and
6 security upgrades, office furniture and supplies, laboratory
7 equipment, and other purposes that support a drug and alcohol
8 toxicology testing laboratory.

9 The sums appropriated shall be expended by the department
10 of transportation or appropriated as a grant-in-aid to the city
11 and county of Honolulu for the purposes of this Act.

12 SECTION 13. Any provision of this Act to the contrary
13 notwithstanding, the appropriation for fiscal year 2023-2024
14 authorized by section 12 of this Act shall not lapse at the end
15 of the fiscal year for which the appropriation is made; provided
16 that any unexpended and unencumbered balance of the
17 appropriation made by section 12 this Act as of the close of
18 business on June 30, 2025, shall lapse back to the credit of the
19 state highway fund.

20 SECTION 14. No later than thirty days prior to the
21 convening of each of the regular sessions of 2025 and 2026, the



1 department of transportation and the city and county of Honolulu
2 emergency services department shall submit to the legislature
3 report on the expenditures made from the drug and alcohol
4 toxicology testing laboratory special fund, including the
5 amounts expended and the purpose of each expenditure as it
6 relates to supporting the drug and alcohol toxicology testing
7 laboratory.

8 SECTION 15. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 16. This Act shall take effect on July 1, 2050;
11 provided that sections 11 and 12 shall take effect on July 1,
12 2050.



Report Title:

Drug and Alcohol Toxicology Testing Laboratory; Special Fund;
Appropriations

Description:

Amends the name and administration of the drug and alcohol
toxicology testing laboratory special fund. Appropriates funds.
Requires a report to the legislature. Effective 7/1/2050.
(HD1)

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

