
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 However, there is an immediate and urgent need for blood
12 alcohol testing, and the department of health cannot fulfill
13 these services at this time. The city and county of Honolulu
14 emergency services department is currently able to conduct blood
15 alcohol testing for all counties and will be able to conduct
16 drug testing for impaired driving cases in the future if
17 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) Specify that moneys in the state drug and alcohol
2 toxicology testing laboratory special fund shall be
3 administered and expended by the department of
4 transportation;
- 5 (3) Rename the state drug and alcohol toxicology testing
6 laboratory special fund to remove the word "state";
7 and
- 8 (4) Appropriate funds from the state highway fund to the
9 drug and alcohol toxicology testing laboratory special
10 fund.

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

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

- 15 (1) To pay the costs of operation, maintenance, and repair
16 of the state highway system, including without
17 limitation, the cost of equipment and general
18 administrative overhead;
- 19 (2) To pay the costs of acquisition, including real
20 property and interests therein; planning; designing;
21 construction; and reconstruction of the state highway



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

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

20 "[~~§~~291E-8~~]~~ [~~State drug~~] Drug and alcohol toxicology
 21 testing laboratory special fund; established. (a) There is



1 established in the state treasury a [state] drug and alcohol
2 toxicology testing laboratory special fund, into which shall be
3 deposited:

- 4 (1) All fines collected pursuant to sections [±]291E-
5 61(b)(2)(E) [±], 291E-61.5(c)(2)(C), and 291E-62(c);
6 (2) Moneys appropriated by the legislature to the fund;
7 (3) Other grants and gifts made to the fund; and
8 (4) Any income and interest earned on the balance of the
9 fund.

10 (b) Moneys in the [state] drug and alcohol toxicology
11 testing laboratory special fund shall be administered and
12 expended by the [~~department of health~~] department of
13 transportation or appropriated as a grant-in-aid to the city and
14 county of Honolulu emergency services department to support a
15 [state] drug and alcohol toxicology testing laboratory."

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

18 "(b) A person committing the offense of operating a
19 vehicle under the influence of an intoxicant shall be sentenced
20 without possibility of probation or suspension of sentence as
21 follows:



- 1 (1) Except as provided in paragraph (4), for the first
2 offense, or any offense not preceded within a ten-year
3 period by a conviction for an offense under this
4 section or section 291E-4(a):
- 5 (A) A fourteen-hour minimum substance abuse
6 rehabilitation program, including education and
7 counseling, or other comparable programs deemed
8 appropriate by the court;
- 9 (B) Revocation of license to operate a vehicle for
10 ~~the~~ not less than one year and ~~the~~ not more
11 than eighteen months;
- 12 (C) Installation during the revocation period of an
13 ignition interlock device on all vehicles
14 operated by the person;
- 15 (D) Any one or more of the following:
- 16 (i) Seventy-two hours of community service work;
- 17 (ii) ~~The~~ Not less than forty-eight hours and
18 ~~the~~ not more than five days of
19 imprisonment; or
- 20 (iii) A fine of ~~the~~ not less than \$250 and ~~the~~
21 not more than \$1,000;



- 1 (E) A surcharge of \$25 to be deposited into the
- 2 neurotrauma special fund; and
- 3 (F) A surcharge, if the court so orders, or up to \$25
- 4 to be deposited into the trauma system special
- 5 fund;
- 6 (2) For an offense that occurs within ten years of a prior
- 7 conviction for an offense under this section:
- 8 (A) A substance abuse program of at least thirty-six
- 9 hours, including education and counseling, or
- 10 other comparable programs deemed appropriate by
- 11 the court;
- 12 (B) Revocation of license to operate a vehicle for
- 13 ~~[ne]~~ not less than two years and ~~[ne]~~ not more
- 14 than three years;
- 15 (C) Installation during the revocation period of an
- 16 ignition interlock device on all vehicles
- 17 operated by the person;
- 18 (D) Either one of the following:
- 19 (i) ~~[Ne]~~ Not less than two hundred forty hours
- 20 of community service work; or



- 1 (ii) [~~ne~~] Not less than five days and [~~ne~~] not
2 more than thirty days of imprisonment, of
3 which at least forty-eight hours shall be
4 served consecutively;
- 5 (E) A fine of [~~ne~~] not less than \$1,000 and [~~ne~~] not
6 more than \$3,000, to be deposited into the
7 [~~state~~] drug and alcohol toxicology testing
8 laboratory special fund;
- 9 (F) A surcharge of \$25 to be deposited into the
10 neurotrauma special fund; and
- 11 (G) A surcharge of up to \$50, if the court so orders,
12 to be deposited into the trauma system special
13 fund;
- 14 (3) In addition to a sentence imposed under paragraphs (1)
15 and (2), any person eighteen years of age or older who
16 is convicted under this section and who operated a
17 vehicle with a passenger, in or on the vehicle, who
18 was younger than fifteen years of age, shall be
19 sentenced to an additional mandatory fine of \$500 and
20 an additional mandatory term of imprisonment of forty-
21 eight hours; provided that the total term of



1 imprisonment for a person convicted under this
2 paragraph shall not exceed the maximum term of
3 imprisonment provided in paragraph (1) or (2), as
4 applicable. Notwithstanding paragraphs (1) and (2),
5 the revocation period for a person sentenced under
6 this paragraph shall be [æ] not less than two years;
7 (4) In addition to a sentence imposed under paragraph (1),
8 for a first offense under this section, or an offense
9 not preceded within a ten-year period by a conviction
10 for an offense, any person who is convicted under this
11 section and was a highly intoxicated driver at the
12 time of the subject incident shall be sentenced to an
13 additional mandatory term of imprisonment for forty-
14 eight consecutive hours and an additional mandatory
15 revocation period of six months; provided that the
16 total term of imprisonment for a person convicted
17 under this paragraph shall not exceed the maximum term
18 of imprisonment provided in paragraph (1).
19 Notwithstanding paragraph (1), the revocation period
20 for a person sentenced under this paragraph shall be
21 [æ] not less than eighteen months;



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

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

19 (A) Was not sentenced to any additional mandatory
20 revocation period pursuant to paragraph (3) or
21 (4);



- 1 (B) Actually installed and maintained an ignition
2 interlock device on all vehicles operated by the
3 person for a continuous period of six months,
4 after which the person maintained the ignition
5 interlock device on all vehicles operated by the
6 person for a continuous period of three months
7 without violation;
- 8 (C) Includes with [~~their~~] the person's motion for
9 early termination a certified court abstract
10 establishing that [~~they were~~] the person was not
11 sentenced to any additional mandatory revocation
12 period pursuant to paragraph (3) or (4);
- 13 (D) Includes with [~~their~~] the person's motion for
14 early termination a certified statement from the
15 director of transportation establishing that:
- 16 (i) The person installed and maintained an
17 ignition interlock device on all vehicles
18 operated by the person for a continuous
19 period of six months; and
- 20 (ii) After the six-month period, the person
21 maintained the ignition interlock device on



1 all vehicles operated by the person for a
2 continuous period of three months without
3 violation; and

4 (E) Has complied with all other sentencing
5 requirements.

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

11 (7) If the person demonstrates to the court that the
12 person:

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

16 (B) Is otherwise unable to drive during the
17 revocation period,

18 the person shall be prohibited from driving during the
19 period of applicable revocation provided in paragraphs

20 (1) to (5); provided that the person shall be

21 sentenced to the maximum license revocation period,



1 the court shall not issue an ignition interlock permit
2 pursuant to subsection (i), and the person shall be
3 subject to the penalties provided by section 291E-62
4 if the person drives during the applicable revocation
5 period; and

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

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

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



- 1 (C) Failing to provide a rolling retest, unless an
- 2 acceptable test is performed within ten minutes;
- 3 (D) Violating section 291E-66; or
- 4 (E) Failing to provide a clear photo of the person
- 5 when the person blows into the ignition interlock
- 6 device."

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

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

11 (1) An indeterminate term of imprisonment of five years;
12 or

13 (2) A term of probation of five years, with conditions to
14 include:

15 (A) Mandatory revocation of license to operate a
16 vehicle for a period [~~no~~] not less than three
17 years but [~~no~~] not more than five years, with
18 mandatory installation of an ignition interlock
19 device in all vehicles operated by the respondent
20 during the revocation period;



1 (B) [~~Ne~~] Not less than ten days imprisonment, of
2 which at least forty-eight hours shall be served
3 consecutively;

4 (C) A fine of [~~ne~~] not less than \$2,000 but no more
5 than \$5,000, to be deposited into the [~~state~~]
6 drug and alcohol toxicology testing laboratory
7 special fund;

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

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

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

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

18 SECTION 6. Section 291E-62, Hawaii Revised Statutes, is
19 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 section 291-
7 4.5 as that section was in effect on December 31,
8 2001:

9 (A) A term of imprisonment of [~~no~~] not less than
10 three consecutive days and no more than thirty
11 days;

12 (B) A fine of [~~no~~] not less than \$250 and [~~no~~] not
13 more than \$1,000, to be deposited into the
14 [~~state~~] drug and alcohol toxicology testing
15 laboratory special fund; and

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

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



- 1 (A) Thirty days imprisonment;
- 2 (B) A \$1,000 fine, to be deposited into the [state]
3 drug and alcohol toxicology testing laboratory
4 special fund; and
- 5 (C) Revocation of license and privilege to operate a
6 vehicle for an additional two years;
- 7 (3) For an offense that occurs within ten years of two or
8 more prior convictions for offenses under this
9 section, section 291E-66, or section 291-4.5 as that
10 section was in effect on December 31, 2001, or any
11 combination thereof:
- 12 (A) [~~Ne~~] Not less than six months and [~~ne~~] not more
13 than one year imprisonment;
- 14 (B) A \$2,000 fine, to be deposited into the [state]
15 drug and alcohol toxicology testing laboratory
16 special fund; and
- 17 (C) Permanent revocation of the person's license and
18 privilege to operate a vehicle; and
- 19 (4) In addition to a sentence imposed under paragraphs (1)
20 through (3), any person who is convicted under this
21 section and also convicted under section 291E-61 or



1 291E-61.5, for an offense based on the same incident
2 or arising from the same episode, shall be sentenced
3 to terms of imprisonment for both offenses, which
4 shall be served consecutively."

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

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



1 SECTION 8. There is appropriated out of the state highway
2 fund of the State of Hawaii, the sum of \$ or so much
3 thereof as may be necessary for fiscal year 2023-2024 and the
4 same sum or so much as necessary for fiscal year 2024-2025 for
5 deposit into the drug and alcohol toxicology testing laboratory
6 special fund established by section 291E-8, Hawaii Revised
7 Statutes.

8 The sum appropriated shall be expended by the department of
9 transportation for the purposes of this Act.

10 SECTION 9. There is appropriated out of the drug and
11 alcohol toxicology testing laboratory special fund the sum of
12 \$ or so much thereof as may be necessary for fiscal
13 year 2023-2024 and the same sum or so much as necessary for
14 fiscal year 2024-2025 for the establishment and maintenance of a
15 drug and alcohol toxicology testing laboratory, including the
16 costs of laboratory instrumentation, facility renovation and
17 security upgrades, office furniture and supplies, laboratory
18 equipment, and other purposes that support a drug and alcohol
19 toxicology testing laboratory.

20 The sums appropriated shall be expended by the department
21 of transportation for the purposes of this Act.



1 SECTION 10. Any provision of this Act to the contrary
2 notwithstanding, the appropriation authorized under this Act
3 shall not lapse at the end of the fiscal year for which the
4 appropriation is made. Any unexpended and unencumbered balance
5 of the appropriation made in this Act as of the close of
6 business on June 30, 2025, shall lapse back to the credit of the
7 state highway fund.

8 SECTION 11. No later than thirty days prior to the
9 convening of each of the regular sessions of 2025 and 2026, the
10 department of health and the city and county of Honolulu
11 emergency services department shall submit a report to the
12 legislature on the expenditures made from the drug and alcohol
13 toxicology testing laboratory special fund, including the
14 amounts expended and the purpose of each expenditure as it
15 relates to supporting the drug and alcohol toxicology testing
16 laboratory.

17 SECTION 12. Act 196, Session Laws of Hawaii 2021, is
18 amended by amending section 9 to read as follows:

19 "SECTION 9. The [~~state~~] drug and alcohol toxicology
20 testing laboratory special fund established in section 291E-8,
21 Hawaii Revised Statutes, shall be abolished and repealed on



1 June 30, [~~2026,~~] 2028, and any unencumbered remaining balances
2 shall lapse to the [~~general fund.~~] credit of the state highway
3 fund."

4 SECTION 13. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 14. This Act shall take effect upon its approval.



Report Title:

Drug and Alcohol Toxicology Testing Laboratory; Special Fund;
Appropriation

Description:

Amends references to the State Drug and Alcohol Toxicology Testing Laboratory Special Fund. Appropriates funds to the Department of Transportation Highways Division to deposit state highway funds to the Drug and Alcohol Toxicology Testing Laboratory Special Fund. (SD1)

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

