
A BILL FOR AN ACT

RELATING TO DRIVER LICENSING.

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

1 SECTION 1. The legislature finds that vehicles with a hood
2 height greater than forty inches are forty-five per cent more
3 likely to cause dangerous accidents for pedestrians because
4 these features are more likely to kill pedestrians as they
5 strike pedestrians closer to the head or torso rather than their
6 legs. The legislature also finds that possible penalties for
7 excessive speeding and driving while intoxicated are fines or
8 license suspension in a tiered-system.

9 Accordingly, the purpose of this Act is to:

- 10 (1) Require that examinations of applicants for driver's
11 licenses include new sections with questions on the
12 dangers that larger motor vehicles, including trucks
13 and SUVs, pose to pedestrians and bicyclists; and
- 14 (2) Require that penalties for excessive speeding or
15 driving while intoxicated require offenders to retake
16 and pass written and road tests for their driver's
17 license for each offense.



1 SECTION 2. Section 286-108, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) Except as provided in section 286-107.5(a), the
5 examiner of drivers shall examine every applicant for a driver's
6 license, except as otherwise provided in this part. The
7 examination shall include a test of:

8 (1) The applicant's eyesight and any further physical
9 examination that the examiner of drivers finds
10 necessary to determine the applicant's fitness to
11 operate a motor vehicle safely upon the highways;

12 (2) The applicant's ability to understand highway signs
13 regulating, warning, and directing traffic;

14 (3) The applicant's knowledge of the rules of the road
15 based on the traffic laws of the State and the traffic
16 ordinances of the county where the applicant resides
17 or intends to operate a motor vehicle; provided that
18 the examination shall specifically test the
19 applicant's knowledge of the provisions of section
20 291C-121.5 and section 291C-137; [~~and~~]



1 (4) The applicant's knowledge of the dangers that large
2 vehicles, including trucks, pose to pedestrians and
3 bicyclists; and

4 ~~[(4)]~~ (5) The actual demonstration of ability to exercise
5 ordinary and reasonable control in the operation of a
6 motor vehicle.

7 The examinations shall be appropriate to the operation of the
8 category of motor vehicle for which the applicant seeks to be
9 licensed and shall be conducted as required by the director.

10 The examiner of drivers shall require every applicant to
11 comply with section 286-102.5.

12 The examiner of drivers may waive the actual demonstration
13 of ability to operate a motorcycle or motor scooter for any
14 person who furnishes evidence, to the satisfaction of the
15 examiner of drivers, that the person has completed the
16 motorcycle education course approved by the director in
17 accordance with section 431:10G-104.

18 For the purposes of this section, the term "applicant" does
19 not include any person reactivating a license under section
20 286-107.5(a)."

21 2. By amending subsection (c) to read:



1 "(c) The examiner of drivers may waive the written or oral
2 examination required under subsection (a)(2), ~~[and]~~ (3), and 4
3 and the actual demonstration of ability to operate a motor
4 vehicle for any person who:

- 5 (1) Is at least eighteen years of age and who possesses a
6 valid driver's license issued to the applicant in any
7 other state of the United States, the District of
8 Columbia, the Commonwealth of Puerto Rico, American
9 Samoa, Guam, a province of the Dominion of Canada, or
10 the Commonwealth of the Northern Mariana Islands for
11 the operation of vehicles in categories 1 through 3 of
12 section 286-102;
- 13 (2) Has completed the same requirements as set forth in
14 section 286-102.6(f) in another state and possesses a
15 valid provisional license from that state; or
- 16 (3) Is at least eighteen years of age and who possesses a
17 valid driver's license issued to the applicant in any
18 jurisdiction for which the director has granted
19 reciprocal licensing privileges in accordance with
20 section 286-101.5 for the operation of vehicles in
21 category (3) of section 286-102(b)."



1 SECTION 3. Section 291C-105, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§291C-105 Excessive speeding.** (a) No person shall drive
4 a motor vehicle at a speed exceeding:

5 (1) The applicable state or county speed limit by thirty
6 miles per hour or more; or

7 (2) Eighty miles per hour or more irrespective of the
8 applicable state or county speed limit.

9 (b) For the purposes of this section, "the applicable
10 state or county speed limit" means:

11 (1) The maximum speed limit established by county
12 ordinance;

13 (2) The maximum speed limit established by official signs
14 placed by the director of transportation on highways
15 under the director's jurisdiction; or

16 (3) The maximum speed limit established pursuant to
17 section 291C-104 by the director of transportation or
18 the counties for school zones and construction areas
19 in their respective jurisdictions.



1 (c) Any person who violates this section shall be required
2 to retake and pass a driver's license examination as provided in
3 section 286-108.

4 [~~e~~] (d) Any person who violates this section shall be
5 guilty of a petty misdemeanor and shall be sentenced as follows
6 without the possibility of probation or suspension of sentence:

7 (1) For a first offense not preceded by a prior conviction
8 for an offense under this section in the preceding
9 five years:

10 (A) A fine of not less than \$500 and not more than
11 \$1,000;

12 (B) Thirty-day prompt suspension of license and
13 privilege to operate a vehicle during the
14 suspension period, or the court may impose, in
15 lieu of the thirty-day prompt suspension of
16 license, a minimum fifteen-day prompt suspension
17 of license with absolute prohibition from
18 operating a vehicle and, for the remainder of the
19 thirty-day period, a restriction on the license
20 that allows the person to drive for limited work-
21 related purposes;



- 1 (C) Attendance in a course of instruction in driver
- 2 retraining;
- 3 (D) A surcharge of \$25 to be deposited into the
- 4 neurotrauma special fund;
- 5 (E) May be charged a surcharge of up to \$100 to be
- 6 deposited into the trauma system special fund if
- 7 the court so orders;
- 8 (F) An assessment for driver education pursuant to
- 9 section 286G-3; and
- 10 (G) Either one of the following:
 - 11 (i) Thirty-six hours of community service work;
 - 12 or
 - 13 (ii) Not less than forty-eight hours and not more
 - 14 than five days of imprisonment;
- 15 (2) For an offense that occurs within five years of a
- 16 prior conviction for an offense under this section,
- 17 by:
 - 18 (A) A fine of not less than \$750 and not more than
 - 19 \$1,000;
 - 20 (B) Prompt suspension of license and privilege to
 - 21 operate a vehicle for a period of thirty days



- 1 with an absolute prohibition from operating a
2 vehicle during the suspension period;
- 3 (C) Attendance in a course of instruction in driver
4 retraining;
- 5 (D) A surcharge of \$25 to be deposited into the
6 neurotrauma special fund;
- 7 (E) May be charged a surcharge of up to \$100 to be
8 deposited into the trauma system special fund if
9 the court so orders;
- 10 (F) An assessment for driver education pursuant to
11 section 286G-3; and
- 12 (G) Either one of the following:
- 13 (i) Not less than one hundred twenty hours of
14 community service work; or
- 15 (ii) Not less than five days but not more than
16 fourteen days of imprisonment of which at
17 least forty-eight hours shall be served
18 consecutively; and
- 19 (3) For an offense that occurs within five years of two
20 prior convictions for offenses under this section, by:
- 21 (A) A fine of \$1,000;



- 1 (B) Revocation of license and privilege to operate a
- 2 vehicle for a period of not less than ninety days
- 3 but not more than one year;
- 4 (C) Attendance in a course of instruction in driver
- 5 retraining;
- 6 (D) No fewer than ten days but no more than thirty
- 7 days of imprisonment of which at least forty-
- 8 eight hours shall be served consecutively;
- 9 (E) A surcharge of \$25 to be deposited into the
- 10 neurotrauma special fund;
- 11 (F) May be charged a surcharge of up to \$100 to be
- 12 deposited into the trauma system special fund if
- 13 the court so orders; and
- 14 (G) An assessment for driver education pursuant to
- 15 section 286G-3."

16 SECTION 4. Section 291E-8, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) There is established in the state treasury a drug and
19 alcohol toxicology testing laboratory special fund, into which
20 shall be deposited:



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

8 SECTION 5. Section 291E-61.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§291E-61.5 Habitually operating a vehicle under the**
11 **influence of an intoxicant.** (a) A person commits the offense
12 of habitually operating a vehicle under the influence of an
13 intoxicant if:

- 14 (1) The person is a habitual operator of a vehicle while
15 under the influence of an intoxicant; and
16 (2) The person operates or assumes actual physical control
17 of a vehicle:
18 (A) While under the influence of alcohol in an amount
19 sufficient to impair the person's normal mental
20 faculties or ability to care for the person and
21 guard against casualty;



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

4 (C) With .08 or more grams of alcohol per two hundred
5 ten liters of breath; or

6 (D) With .08 or more grams of alcohol per one hundred
7 milliliters or cubic centimeters of blood.

8 (b) Habitually operating a vehicle while under the
9 influence of an intoxicant is a class C felony.

10 (c) Any person convicted of violating this section shall
11 be required to retake and pass a driver's license examination as
12 provided in section 286-108.

13 [~~e~~] (d) For a conviction under this section, the
14 sentence shall be either:

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

16 or

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

19 (A) Mandatory revocation of license to operate a
20 vehicle for a period no less than three years but
21 no more than five years, with mandatory



- 1 installation of an ignition interlock device in
2 all vehicles operated by the respondent during
3 the revocation period;
- 4 (B) No less than ten days imprisonment, of which at
5 least forty-eight hours shall be served
6 consecutively;
- 7 (C) A fine of no less than \$2,000 but no more than
8 \$5,000, to be deposited into the drug and alcohol
9 toxicology testing laboratory special fund;
- 10 (D) Referral to a certified substance abuse counselor
11 as provided in subsection [~~e~~] (f);
- 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 [~~d~~] (e) For any person who is convicted under this
21 section and was a highly intoxicated driver at the time of the



1 subject incident, the offense shall be a class B felony and the
2 person shall be sentenced to the following:

3 (1) An indeterminate term of imprisonment of ten years; or

4 (2) A term of probation of five years, with conditions to
5 include the following:

6 (A) Permanent revocation of license to operate a
7 vehicle;

8 (B) No less than eighteen months imprisonment;

9 (C) A fine of no less than \$5,000 but no more than
10 \$25,000; and

11 (D) Referral to a certified substance abuse counselor
12 as provided in subsection [~~e~~] (f).

13 In addition to the foregoing, any vehicle owned and operated by
14 the person who committed the offense shall be subject to
15 forfeiture pursuant to chapter 712A.

16 [~~e~~] (f) Whenever a court sentences a person under this
17 section, it shall also require that the offender be referred to
18 the driver's education program for an assessment, by a certified
19 substance abuse counselor, of the offender's substance abuse or
20 dependence and the need for appropriate treatment. The
21 counselor shall submit a report with recommendations to the



1 court. The court shall require the offender to obtain
2 appropriate treatment if the counselor's assessment establishes
3 the offender's substance abuse or dependence. All costs for
4 assessment and treatment shall be borne by the offender.

5 ~~[(f)]~~ (g) Notwithstanding any other law to the contrary,
6 whenever a court revokes a person's driver's license pursuant to
7 this section, the examiner of drivers shall not grant to the
8 person a new driver's license until expiration of the period of
9 revocation determined by the court. After the period of
10 revocation is complete, the person may apply for and the
11 examiner of drivers may grant to the person a new driver's
12 license.

13 ~~[(g)]~~ (h) Any person sentenced under this section may be
14 ordered to reimburse the county for the cost of any blood or
15 urine tests conducted pursuant to section 291E-11. The court
16 shall order the person to make restitution in a lump sum, or in
17 a series of prorated installments, to the police department or
18 other agency incurring the expense of the blood or urine test.

19 ~~[(h)]~~ (i) As used in this section:

20 "Convicted one or more times for offenses of habitually
21 operating a vehicle under the influence" means that, at the time



1 of the behavior for which the person is charged under this
2 section, the person had one or more times within ten years of
3 the instant offense:

4 (1) A judgment on a verdict or a finding of guilty, or a
5 plea of guilty or nolo contendere, for a violation of
6 this section or section 291-4.4 as that section was in
7 effect on December 31, 2001;

8 (2) A judgment on a verdict or a finding of guilty, or a
9 plea of guilty or nolo contendere, for an offense that
10 is comparable to this section or section 291-4.4 as
11 that section was in effect on December 31, 2001; or

12 (3) An adjudication of a minor for a law or probation
13 violation that, if committed by an adult, would
14 constitute a violation of this section or section
15 291-4.4 as that section was in effect on December 31,
16 2001,

17 that, at the time of the instant offense, had not been expunged
18 by pardon, reversed, or set aside. All convictions that have
19 been expunged by pardon, reversed, or set aside before the
20 instant offense shall not be deemed prior convictions for the



1 purposes of proving the person's status as a habitual operator
2 of a vehicle while under the influence of an intoxicant.

3 "Convicted two or more times for offenses of operating a
4 vehicle under the influence" means that, at the time of the
5 behavior for which the person is charged under this section, the
6 person had two or more times within ten years of the instant
7 offense:

8 (1) A judgment on a verdict or a finding of guilty, or a
9 plea of guilty or nolo contendere, for a violation of
10 section 291E-61 or 707-702.5;

11 (2) A judgment on a verdict or a finding of guilty, or a
12 plea of guilty or nolo contendere, for an offense that
13 is comparable to section 291E-61 or 707-702.5; or

14 (3) An adjudication of a minor for a law or probation
15 violation that, if committed by an adult, would
16 constitute a violation of section 291E-61 or
17 707-702.5,

18 that, at the time of the instant offense, had not been expunged
19 by pardon, reversed, or set aside. All convictions that have
20 been expunged by pardon, reversed, or set aside before the
21 instant offense shall not be deemed prior convictions for the



1 purposes of proving that the person is a habitual operator of a
2 vehicle while under the influence of an intoxicant.

3 "Examiner of drivers" has the same meaning as provided in
4 section 286-2.

5 "Habitual operator of a vehicle while under the influence
6 of an intoxicant" means that the person was convicted:

7 (1) Two or more times for offenses of operating a vehicle
8 under the influence; or

9 (2) One or more times for offenses of habitually operating
10 a vehicle under the influence."

11 SECTION 6. Section 706-643, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§706-643 Disposition of funds.** (1) The defendant shall
14 pay a fine or any installment thereof to the cashier or clerk of
15 the district or circuit court. In the event of default in
16 payment, the clerk shall notify the prosecuting attorney and, if
17 the defendant is on probation, the probation officer.

18 (2) All fines and other final payments received by a clerk
19 or other officer of a court shall be accounted for, with the
20 names of persons making payment, and the amount and date
21 thereof, being recorded. All such funds shall be deposited with



1 the director of finance to the credit of the general fund of the
2 State. With respect to fines and bail forfeitures that are
3 proceeds of the wildlife revolving fund under section 183D-10.5;
4 fines that are proceeds of the drug and alcohol toxicology
5 testing laboratory special fund under sections 291E-61(b)(2)(E),
6 [~~291E-61.5(e)(2)(C)~~,] 291E-61.5(d)(2)(C), and 291E-62(c); and
7 fines that are proceeds of the compliance resolution fund under
8 sections 26-9(o) and 431:2-410, the director of finance shall
9 transmit the fines and forfeitures to the respective funds."

10 SECTION 7. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

13 SECTION 8. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 9. This Act shall take effect upon its approval.



Report Title:

Driver's License; License Examination; Excessive Speeding; DUI; Penalties

Description:

Requires driver's license examination to test the applicant's knowledge of the dangers that larger motor vehicles present to pedestrians and bicyclists. Requires offenders who are found to be excessively speeding or driving while intoxicated to retake and pass the driver's license examination for each offense.
(SD1)

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

