

ACT 296

S.B. NO. 3073

A Bill for an Act Relating to Impaired Driving.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-151, Hawaii Revised Statutes, is amended to read as follows:

“§286-151 Implied consent of driver of motor vehicle or moped to submit to testing to determine alcohol concentration and drug content. (a) Any person who operates a motor vehicle or moped on the public highways of the State shall be deemed to have given consent, subject to this part, to a test or tests approved by the director of health of the person’s breath, blood, or urine for the purpose of determining alcohol concentration or drug content of the person’s breath, blood, or urine, as applicable.

(b) The test or tests shall be administered at the request of a police officer having probable cause to believe the person driving or in actual physical control of a motor vehicle or moped upon the public highways is under the influence of intoxicating liquor or drugs, or is under the age of twenty-one and has a measurable amount of alcohol concentration, only after:

- (1) A lawful arrest; and

(2) The person has been informed by a police officer of the sanctions under part XIV and sections 286-151.5 and 286-157.3.

(c) If there is probable cause to believe that a person is in violation of section 291-4 [or section], 291-4.3, or 291-4.4, then the person shall have the option to take a breath or blood test, or both, for the purpose of determining the alcohol concentration.

(d) If there is probable cause to believe that a person is in violation of section 291-7, then the person shall have the option to take a blood or urine test, or both, for the purpose of determining the drug content. Drug content shall be measured by the presence of any scheduled drug as provided in section 291-7 or its metabolic products or both. The person shall be informed of the sanctions of section 286-157.3 for failure to take either test.

(e) A person who chooses to submit to a breath test under subsection (c) also may be requested to submit to a blood or urine test, if the officer has probable cause to believe that the person was driving under the influence of any drug under section 291-7 or the combined influence of alcohol and drugs and the officer has probable cause to believe that a blood or urine test will reveal evidence of the person being under the influence of drugs. The officer shall state in the officer's report the facts upon which that belief is based. The person shall have the option to take a blood or urine test, or both, for the purpose of determining the person's drug content. Results of a blood or urine test conducted to determine drug content also shall be admissible for the purpose of determining the person's alcohol content. Submission to testing for drugs under subsection (d) or this subsection shall not be a substitute for alcohol tests requested under subsection (c).

(f) The use of a preliminary alcohol screening device shall not replace a breath, blood, or urine test required under this section. The analysis from the use of a preliminary alcohol screening device shall only be used in determining probable cause for the arrest.

(g) For the purpose of this section:

“Preliminary alcohol screening device” means a device designed to detect and verify the presence of alcohol or provide an estimated value of alcohol concentration.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 3, 2000.)