

ACT 40

S.B. NO. 611

A Bill for an Act Relating to Use of Intoxicants While Operating a Vehicle.

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

SECTION 1. Section 286-118.5, Hawaii Revised Statutes, is amended to read as follows:

“~~§286-118.5~~ License revoked for operating a vehicle under the influence of an intoxicant; eligibility for license renewal. (a) Notwithstanding any other law to the contrary, any person arrested for a violation of section 291E-61 or 291E-61.5 after December 31, 2010, whose license is revoked pursuant to this part or section 291E-61, and who otherwise qualifies for a permit under section 291E-44.5 or 291E-61, may apply for a renewal or reactivation of a driver's license as provided in section 286-107 or 286-107.5~~;~~ ~~provided~~].

(b) A person may apply for relicensing under subsection (a); provided that:

- (1) The license renewal or reactivation shall be for the sole purpose of obtaining or extending a permit issued pursuant to section 291E-44.5 or 291E-61;
- (2) No physical driver's license shall be issued to the person; and
- (3) The driver's license shall expire as provided in section 286-106 or upon the end of the revocation period, whichever occurs first.

(c) A holder of a valid ignition interlock permit may take any tests necessary to apply for relicensing no sooner than thirty days prior to expiration of the revocation period; provided that the driver's license shall not be issued until the completion of the revocation period.”

SECTION 2. Section 291E-62, Hawaii Revised Statutes, is amended to read as follows:

“§291E-62 Operating a vehicle after license and privilege have been suspended or revoked for operating a vehicle under the influence of an intoxicant; penalties. (a) No person whose license and privilege to operate a vehicle have been revoked, suspended, or otherwise restricted pursuant to this section or to part III or section 291E-61 or 291E-61.5, or to part VII or part XIV of chapter 286 or section 200-81, 291-4, 291-4.4, 291-4.5, or 291-7 as those provisions were in effect on December 31, 2001, shall operate or assume actual physical control of any vehicle:

- (1) In violation of any restrictions placed on the person's license;
- (2) While the person's license or privilege to operate a vehicle remains suspended or revoked; ~~[or]~~

- (3) Without installing an ignition interlock device required by this chapter[-]; or
- (4) With an ignition interlock permit unless the person has the ignition interlock permit and a valid State of Hawaii identification card in the person's immediate possession.

(b) No person who has been issued a notice of administrative revocation that serves as a temporary permit by a law enforcement officer, pursuant to section 291E-33, shall operate or assume actual physical control of any vehicle after the expiration of the temporary permit unless that person has an otherwise valid driver's license. No person charged with violating this section shall be convicted if the person produces in court, or proves from the proper official or other records, that the person was the holder of a valid driver's license at the time of the offense.

~~[(b)]~~ (c) Any person convicted of violating this section shall be sentenced as follows without possibility of probation or suspension of sentence:

- (1) For a first offense, or any offense not preceded within a five-year period by conviction for an offense under this section, section 291E-66, or section 291-4.5 as that section was in effect on December 31, 2001:
 - (A) A term of imprisonment of not less than three consecutive days but not more than thirty days;
 - (B) A fine of not less than \$250 but not more than \$1,000;
 - (C) Revocation of license and privilege to operate a vehicle for an additional year; and
 - (D) Loss of the privilege to operate a vehicle equipped with an ignition interlock device, if applicable;
- (2) For an offense that occurs within five years of a prior conviction for an offense under this section, section 291E-66, or section 291-4.5 as that section was in effect on December 31, 2001:
 - (A) Thirty days imprisonment;
 - (B) A \$1,000 fine;
 - (C) Revocation of license and privilege to operate a vehicle for an additional two years; and
 - (D) Loss of the privilege to operate a vehicle equipped with an ignition interlock device, if applicable; and
- (3) For an offense that occurs within five years of two or more prior convictions for offenses under this section, section 291E-66, or section 291-4.5 as that section was in effect on December 31, 2001, or any combination thereof:
 - (A) One year imprisonment;
 - (B) A \$2,000 fine;
 - (C) Permanent revocation of the person's license and privilege to operate a vehicle; and
 - (D) Loss of the privilege to operate a vehicle equipped with an ignition interlock device, if applicable.

~~[(c)]~~ (d) The applicable period of revocation in subsection ~~[(b)]~~ (c) shall commence upon the release of the person from the period of imprisonment imposed pursuant to this section."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

SECTION 5. This Act shall take effect on January 1, 2016.
(Approved May 6, 2015.)