

A Bill for an Act Relating to Penal Liability.

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

SECTION 1. Section 702-230, Hawaii Revised Statutes, is amended to read as follows:

**“§702-230 Intoxication[-]; self-induced; not self-induced; pathological; affirmative defense.** (1) Self-induced intoxication is prohibited as a defense to any offense, except as specifically provided in this section.

(2) Evidence of the [~~nonself-induced or pathological~~] intoxication of the defendant ~~that is not self-induced intoxication or that is pathological intoxication~~ shall be admissible to prove or [~~negative~~] ~~disprove~~ the conduct alleged or the state of mind sufficient to establish an element of the offense. Evidence of self-induced intoxication of the defendant is admissible to prove or [~~negative~~] ~~disprove~~ conduct or to prove ~~the~~ state of mind sufficient to establish an element of an offense. Evidence of self-induced intoxication of the defendant is not admissible to [~~negative~~] ~~disprove~~ the state of mind sufficient to establish an element of the offense.

(3) Intoxication does not, in itself, constitute a physical or mental disease, disorder, or defect within the meaning of section 704-400.

(4) Intoxication that is:

- (a) Not self-induced[;] intoxication; or
- (b) Pathological[;] intoxication.

is [a] an affirmative defense if by reason of the intoxication, the defendant at the time of the defendant's conduct lacks substantial capacity [~~either~~] to engage in the alleged conduct, to have the state of mind sufficient to establish an element of the offense, to appreciate [its] the wrongfulness of the defendant's conduct, or to conform the defendant's conduct to the requirements of law.

(5) [~~H~~] As used in this section:

“Intoxication” means a disturbance of mental or physical capacities resulting from the introduction of substances into the body.

“Lacks substantial capacity” means capacity that has been impaired to such a degree that only an extremely limited amount remains.

“Pathological intoxication” means intoxication grossly excessive in degree, given the amount of the intoxicant, to which the defendant does not know the defendant is susceptible and [~~which~~] that results from a physical abnormality of the defendant.

“Self-induced intoxication” means intoxication caused by substances [~~which~~] that the defendant knowingly introduces into the defendant's body, the tendency of which to cause intoxication the defendant knows or ought to know, unless the defendant introduces [~~them~~] the substances pursuant to medical advice or under [~~such~~] circumstances [~~as~~] that would afford a defense to a charge of a penal offense.”

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 and stricken. New statutory material is underscored.

**SECTION 4.** This Act shall take effect upon its approval; provided that on July 1, 2034, this Act shall be repealed and section 702-230, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act.

(Approved July 9, 2024.)