H.B. NO. 3201

A BILL FOR AN ACT

RELATING TO VEHICLE IGNITION INTERLOCK SYSTEMS.

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

SECTION 1. There is a need to reduce the number of drivers on highways and roads of Hawaii who, because of their consumption of intoxicating liquor, pose a danger to the health and safety of the people of Hawaii. A method of reducing the number of intoxicated drivers is to prevent the operation of vehicles by persons who have consumed alcoholic beverages. The ignition interlock system is such a method.

Ignition interlock systems are designed to measure breath alcohol and prevent drivers from driving a vehicle equipped with such a device if the driver's alcohol level is above a certain prescribed level. Moreover, it is economically and technically feasible to have an ignition interlock system installed in a vehicle, including motorcycles. Such a step needs to be taken if we are serious about protecting our citizens from drunk drivers. Sentencing an impaired driver to prison alone does little more than remove the offender from the roads for a period of time. Suspending or revoking the impaired driver's license

alone may still not be sufficient to deter the offender from drinking and driving. To mechanically prevent the operation of the vehicle seems to be the next logical response to this problem. The purpose of this Act is to authorize the court to require a person convicted of driving under the influence of an intoxicant to install an ignition interlock system in the person's vehicle. The purpose of this Act is to also authorize the administrative driver's license revocation office to require a person requesting a conditional license permit under section 291E-44 as well as a person seeking relicensing under section 291E-45 to install an ignition interlock system in the person's vehicle.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter 286H to read as follows:

"CHAPTER 286H

IGNITION INTERLOCK SYSTEMS

§ 286H-1 Definitions. As used in this chapter:

"Ignition interlock system" or "system" means an alcohol monitoring system certified by Underwriters Laboratory Inc., or an equivalent nationally recognized certification organization, that prevents a motor vehicle from starting at any time the

1 device detects a predetermined blood alcohol level in the
2 operator through a deep-lung breath sample.
3 "Installer" means an installer of an ignition interlock
4 system certified by the director of transportation pursuant to
5 this chapter.
6 "Examiner of drivers" means the person or persons appointed
7 under section 286-101.
8 **§ 286H-2 Proof of compliance; failure to comply.** (a)
9 When the court sentences an offender to the use of an ignition
10 interlock system pursuant to section 291E-61, the court shall
11 require the offender to provide proof of installation to the
12 division of driver's education within ten working days.
13 (b) If the offender fails to provide proof of installation
14 within that period, absent a finding of good cause by the court,
15 the court shall revoke or terminate the offender's driving
16 privileges for the remaining period during which the use of the
17 system was required.
18 (c) In the event that the system cannot be installed due
19 to the unavailability of the system, the manufacturer or
20 installer shall report this to the court and the court may
21 extend the time for installation of the system for an additional
22 thirty days.

(d) For the purposes of this section, good cause for failure to comply shall mean any reason the court deems sufficiently justifiable to excuse the offender's failure to comply with its order.

(e) The court shall also require any individual restricted under this chapter to apply for a new driver's license that will indicate that the person may operate only a motor vehicle equipped with an ignition interlock system.

§ 286H-3 Monitoring. An installer of an ignition interlock system shall have the system monitored by the manufacturer of the system for proper use and accuracy at least quarterly or more frequently, as the court may order. A report of that monitoring shall be issued by the manufacturer to the division of driver's education and the director of transportation within fourteen days following each monitoring.

§ 286H-4 Costs. If an ignition interlock system is ordered installed pursuant to this chapter, the offender shall pay the costs associated with leasing and installing the system.

§ 286H-5 Employer-owned vehicles. (a) If an offender ordered to install an ignition interlock system is required, in the course and scope of the person's employment, to operate a motor vehicle owned by the person's employer, the

person may operate that vehicle without installation of an ignition interlock system; provided that the license needed to operate the vehicle is not a category four license; and provided further that the employee shall notify the employer that the employee's driving privileges are restricted as provided in section 291E-61.

(b) To the extent that an employer-owned vehicle is made available for personal use to a person subject to this chapter, no exemption under this section shall apply. A person intending to operate an employer-owned motor vehicle for personal use and who is required to operate only a motor vehicle equipped with a certified ignition interlock system shall bear the burden of notifying the employer in accordance with this section and the employer shall bear the burden of installing such a system in the employer-owned vehicle.

(c) Upon conviction for violation of any provision of this section, the court shall notify the examiner of drivers who shall immediately revoke the person's license to operate a vehicle for the remainder of the period of suspension or revocation during which the ignition interlock system requirement was imposed.

1 **§ 286H-6 Tampering; use of other than personal motor**
2 **vehicle.** (a) A person shall not knowingly circumvent or tamper
3 with the operation of an ignition interlock system.
4 (b) No person shall knowingly rent, lease, or lend a motor
5 vehicle to a person whose driving privilege is restricted as
6 provided in this chapter, unless the vehicle is equipped with a
7 functioning, certified ignition interlock system. An offender
8 whose driving privilege is restricted shall notify any other
9 person who rents, leases, or lends a vehicle to the restricted
10 person of the driving restriction imposed under this chapter.
11 **§ 286H-7 Circumvention.** (a) No person shall knowingly
12 solicit another to blow into an ignition interlock system to
13 start the vehicle so as to circumvent the system.
14 (b) No person shall knowingly blow into an ignition
15 interlock system or start a vehicle equipped with an ignition
16 interlock system for the purpose of providing an operable
17 vehicle to another person who is required to have such a system.
18 (c) This section shall not apply if the starting of a
19 vehicle, or the request to start a vehicle, equipped with an
20 ignition interlock system is done for the purpose of safety or
21 mechanical repair of the system or the vehicle, provided that

the person subject to the court order does not operate the vehicle.

§ 286H-8 Certification. (a) The director of transportation shall certify or cause to be certified ignition interlock systems installers.

(b) No ignition interlock system shall be installed and no installer shall install an ignition interlock system for purposes of this chapter unless the ignition interlock system is certified by Underwriters Laboratory Inc. or an equivalent nationally recognized certification organization.

§ 286H-9 Penalty. Any person convicted of a violation of this chapter shall be guilty of a misdemeanor."

SECTION 3. Section 286-109, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Upon payment of the required fee and upon demonstrating the ability to operate a certain category or categories of motor vehicles to the satisfaction of the examiner of drivers, an applicant for a driver's license shall be issued a single license of a design approved by the director of transportation upon which is made a notation of:

(1) The category or categories of motor vehicles the applicant may operate;

(2) Any restrictive provisions to which the license is subject; [~~and~~]

(3) When the license is issued to a person under twenty-one years of age, a statement, in clearly legible print that shall contrast with the other information appearing on the license, which indicates the date on which the person will attain the age of twenty-one years[~~.~~]; and

(4) When the license is issued to a person who has been ordered to install and drive a vehicle equipped with an ignition interlock system, a statement, in clearly legible print that shall contrast with the other information appearing on the license, indicating that the licensee is prohibited from driving any vehicle not equipped with an ignition interlock system."

SECTION 4. Section 291E-44, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a)(1) During the administrative hearing, the director, at the request of a respondent who is subject to administrative revocation for a period as provided in section 291E-41(b)(1), may issue a conditional license permit that will allow the respondent,

after a minimum period of absolute license revocation of thirty days, to drive for the remainder of the revocation period; provided that one or more of the following conditions are met:

(A) The respondent is gainfully employed in a position that requires driving and will be discharged if the respondent's driving privileges are administratively revoked; or

(B) The respondent has no access to alternative transportation and therefore must drive to work or to a substance abuse treatment facility or counselor for treatment ordered by the director under section 291E-41; or

(2) Notwithstanding any other law to the contrary, the director shall not issue a conditional license permit to:

(A) A respondent whose license, during the conditional license permit period, is expired, suspended, or revoked as a result of action other than the instant revocation for which the respondent is requesting a conditional license permit under this section;

(B) A respondent who has refused breath, blood, or urine tests for purposes of determining alcohol concentration or drug content of the person's breath, blood, or urine, as applicable;

(C) A respondent who is a highly intoxicated driver; and

(D) A respondent who holds either a category 4 license under section 286-102(b) or a commercial driver's license under section 286-239(b) unless the conditional license permit is restricted to a category 1, 2, or 3 license under section 286-102(b).

(3) If a conditional license permit is issued under paragraph (1), the respondent shall, for the duration of the conditional license permit, be required to connect an ignition interlock system to the respondent's vehicle and be prohibited from driving any vehicle that is not outfitted with an ignition interlock device."

SECTION 5. Section 291E-45, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"b) To be eligible for relicensing or reregistration of a motor vehicle, if applicable, after a period of administrative revocation has expired, the person shall:

(1) Submit proof to the director of compliance with all conditions imposed by the director;

(2) Obtain a certified statement from the director indicating eligibility for registration of a motor vehicle;

(3) Present the certified statement to the appropriate county director of finance; and

(4) Successfully complete each requirement, as provided in chapter 286, for obtaining a new certificate of registration for a motor vehicle in this State, including payment of all applicable fees[~~.~~]; and

(5) In the case of relicensing, be prohibited from operating any motor vehicle that is not outfitted with an ignition interlock device, for a period of one year from the date of the relicensing."

SECTION 6. Section 291E-61, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) A person committing the offense of operating a vehicle under the influence of an intoxicant shall be sentenced

as follows without possibility of probation or suspension of sentence:

(1) Except as provided in [+]paragraph[+] (2), for the first offense, or any offense not preceded within a five-year period by a conviction for an offense under this section or section 291E-4(a):

(A) A fourteen-hour minimum substance abuse rehabilitation program, including education and counseling, or other comparable program deemed appropriate by the court;

(B) Ninety-day prompt suspension of license and privilege to operate a vehicle during the suspension period, or the court may impose, in lieu of the ninety-day prompt suspension of license, a minimum thirty-day prompt suspension of license with absolute prohibition from operating a vehicle and, for the remainder of the ninety-day period, a restriction on the license that allows the person to drive for limited work-related purposes and to participate in substance abuse treatment programs; provided that, while the person is licensed to drive for

1 the remainder of the ninety-day period, the
2 person shall be required to connect an ignition
3 interlock system to the person's vehicle and be
4 prohibited from driving any vehicle that is not
5 outfitted with an ignition interlock device;
6 (C) Any one or more of the following:
7 (i) Seventy-two hours of community service work;
8 (ii) Not less than forty-eight hours and not more
9 than five days of imprisonment; [~~or~~]
10 (iii) A fine of not less than $150 but not more
11 than $1,000; [~~and~~] or
12 (iv) Be required to connect an ignition interlock
13 system to the person's vehicle and be
14 prohibited from driving any vehicle that is
15 not outfitted with an ignition interlock
16 device, for one year following the end of
17 the ninety-day license suspension period;
18 and
19 (D) A surcharge of $25 to be deposited into the
20 neurotrauma special fund;
21 (2) For a first offense committed by a highly intoxicated
22 driver, or for any offense committed by a highly

intoxicated driver not preceded within a five-year period by a conviction for an offense under this section or section 291E-4(a):

(A) A fourteen-hour minimum substance abuse rehabilitation program, including education and counseling, or other comparable program deemed appropriate by the court;

(B) Prompt suspension of a license and privilege to operate a vehicle for a period of six months with an absolute prohibition from operating a vehicle during the suspension period;

(C) Any one or more of the following:

(i) Seventy-two hours of community service work;

(ii) Not less than forty-eight hours and not more than five days of imprisonment; [~~or~~]

(iii) A fine of not less than $150 but not more than $1,000; [~~and~~] <u>or</u>

<u>(iv) Be required to connect an ignition interlock system to the person's vehicle and be prohibited from driving any vehicle that is not outfitted with an ignition interlock device, for one and a half years following</u>

the end of the six-month license suspension period; and

(D) A surcharge of $25 to be deposited into the neurotrauma special fund;

(3) For an offense that occurs within five years of a prior conviction for an offense under this section or section 291E-4(a) by:

(A) Prompt suspension of license and privilege to operate a vehicle for a period of one year with an absolute prohibition from operating a vehicle during the suspension period;

(B) Either one of the following:

(i) Not less than two hundred forty hours of community service work; [~~or~~]

(ii) Not less than five days but not more than fourteen days of imprisonment of which at least forty-eight hours shall be served consecutively; or

(iii) Be required to connect an ignition interlock system to the person's vehicle and be prohibited from driving any vehicle that is not outfitted with an ignition interlock

1 device, for three years following the end of
2 the one-year license suspension period;
3 (C) A fine of not less than $500 but not more than
4 $1,500; and
5 (D) A surcharge of $25 to be deposited into the
6 neurotrauma special fund;
7 (4) For an offense that occurs within five years of two
8 prior convictions for offenses under this section or
9 section 291E-4(a):
10 (A) A fine of not less than $500 but not more than
11 $2,500;
12 (B) Revocation of license and privilege to operate a
13 vehicle for a period not less than one year but
14 not more than five years; provided that the
15 person shall be required to connect an ignition
16 interlock system to the person's vehicle and be
17 prohibited from driving any vehicle that is not
18 outfitted with an ignition interlock device, for
19 five years following the end of the license
20 revocation period;

1 (C) Not less than ten days but not more than thirty
2 days imprisonment of which at least forty-eight
3 hours shall be served consecutively;
4 (D) A surcharge of $25 to be deposited into the
5 neurotrauma special fund; and
6 (E) Forfeiture under chapter 712A of the vehicle
7 owned and operated by the person committing the
8 offense; provided that the department of
9 transportation shall provide storage for vehicles
10 forfeited under this subsection; and
11 (5) Any person eighteen years of age or older who is
12 convicted under this section and who operated a
13 vehicle with a passenger, in or on the vehicle, who
14 was younger than fifteen years of age, shall be
15 sentenced to an additional mandatory fine of $500 and
16 an additional mandatory term of imprisonment of
17 forty-eight hours; provided that the total term of
18 imprisonment for a person convicted under this
19 paragraph shall not exceed the maximum term of
20 imprisonment provided in paragraph (1), (3), or (4).

1 Notwithstanding any provision to the contrary, no offender shall
2 be permitted to operate any vehicle classified as a category
3 four license."
4 SECTION 7. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun, before its effective date.
7 SECTION 8. The department of transportation shall monitor
8 the use of ignition interlock systems and shall submit a report
9 to the legislature no later than twenty days prior to the
10 convening of the 2010 regular session, on the implementation,
11 use, and effectiveness of ignition interlock systems.
12 SECTION. 9. If any provision of this Act or the
13 application thereof to any person or circumstance is held
14 invalid, the invalidity shall not affect other provisions or
15 applications of the Act which can be given effect without the
16 invalid provision or application, and to this end the provisions
17 of this Act are declared to be severable.
18 SECTION 10. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.
20 SECTION 11. This Act shall take effect on January 1, 2009.
21
22

H.B. NO. 3201

INTRODUCED BY: Calvin K.Y. Say

BY REQUEST

JAN 22 2008

H.B. NO. 3201

Report Title:
Vehicle Ignition Interlock Systems; highway; safety

Description:
Establishes an ignition interlock program, which directs the courts and the administrative driver's license revocation office to require use of the system as part of the sentence for driving under the influence of an intoxicant, as a condition for conditional license permits, and as a condition for being relicensed.

HB3201

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO VEHICLE IGNITION INTERLOCK SYSTEMS.

PURPOSE: To reduce the incidence of drivers who, because of intoxication, pose a danger to the health and safety of the people of Hawaii.

An ignition interlock system will measure a driver's breath alcohol and will prevent the driver from operating a vehicle if the system detects that the driver is intoxicated. This bill requires a person who is granted a conditional license permit, to drive with an ignition interlock system for the duration of the permit. This bill also requires a person who is relicensed, to drive with an ignition interlock system for one year.

In addition, this bill gives the court the discretion to sentence individuals who have been convicted of driving under the influence of an intoxicant, to install an ignition interlock system on their vehicle.

MEANS: Add a new chapter 286H to the Hawaii Revised Statutes and amend sections 286-109, 291E-44, 291E-45, and 291E-61, Hawaii Revised Statutes.

JUSTIFICATION: Hawaii is one of only five states without an ignition interlock statute. In 2006, there were 67 fatalities related to drinking and driving, representing 47.9 percent of all of Hawaii's traffic fatalities. Only three other states have higher percentages than Hawaii. Hawaii's high incidence of drivers who repeatedly drive under the influence, poses a danger to the health and safety of people in Hawaii. Our current laws are not sufficient to prevent the high number of DUI-related injuries and deaths reported each year. The ignition interlock system provides an economical and technically feasible solution to further reduce DUI-related injuries and deaths by rendering an equipped vehicle inoperable by anyone who has consumed alcohol shortly prior to attempting to drive.

HB 3201

Impact on the public: Provides additional safety from DUI drivers.

Impact on the department and other agencies: Bill would require certification of installers by the Director of Transportation. The bill also allows the Judiciary to provide an additional sanction for DUI offenders, under both the criminal process and the administrative driver's license revocation process.

GENERAL FUND: None.

OTHER FUNDS: None.

OTHER AFFECTED AGENCIES: All state and county law enforcement departments, the State Judiciary, and county prosecutors.

EFFECTIVE DATE: January 1, 2009.