
A BILL FOR AN ACT

RELATING TO CRIME.

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

- 1 SECTION 1. 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



1 the counties for school zones and construction areas
2 in their respective jurisdictions.

3 (c) Any person who violates this section shall be guilty
4 of a petty misdemeanor and shall be sentenced as follows without
5 the possibility of probation or suspension of sentence:

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

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

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

21 (C) Attendance in a course of instruction in driver
22 retraining;



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



- 1 (E) An assessment for driver education pursuant to
- 2 section 286G-3; and
- 3 (F) Either one of the following:
- 4 (i) Not less than one hundred twenty hours of
- 5 community service work; or
- 6 (ii) Not less than five days but not more than
- 7 fourteen days of imprisonment of which at
- 8 least forty-eight hours shall be served
- 9 consecutively; and
- 10 (3) For an offense that occurs within five years of two
- 11 prior convictions for offenses under this section, by:
- 12 (A) A fine of \$1,000;
- 13 (B) Revocation of license and privilege to operate a
- 14 vehicle for a period of not less than ninety days
- 15 but not more than one year;
- 16 (C) Attendance in a course of instruction in driver
- 17 retraining;
- 18 (D) No fewer than ten days but no more than thirty
- 19 days of imprisonment of which at least
- 20 forty-eight hours shall be served consecutively;
- 21 (E) A surcharge of \$25 to be deposited into the
- 22 neurotrauma special fund; and



1 (F) An assessment for driver education pursuant to
2 section 286G-3.

3 (d) The requirement to provide proof of financial
4 responsibility pursuant to section 287-20 shall not be based
5 upon a sentence imposed under subsection (c)(1)."

6 SECTION 2. Section 802E-2, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[~~§~~]**802E-2**[~~§~~] **Court advisement concerning alien status**
9 **required.** Prior to [~~acceptance~~] entry of a plea of guilty or
10 nolo contendere to any offense punishable as a crime under state
11 law, except offenses designated as infractions under state law,
12 the court shall [~~administer the following advisement on the~~
13 ~~record to the defendant: If you are~~] address the defendant
14 personally in open court and determine that the defendant
15 understands that if the defendant is not a citizen of the United
16 States, [~~you are hereby advised that conviction of the offense~~
17 ~~for which you have been charged~~] a conviction, or a plea of
18 guilty or no contest, whether acceptance of the plea is deferred
19 or not, may have the consequences of deportation, exclusion from
20 admission to the United States, or denial of naturalization
21 pursuant to the laws of the United States. Upon request, the
22 court shall allow the defendant additional time to consider the



1 appropriateness of the plea in light of the advisement as
2 described in this section."

3 SECTION 3. Section 806-83, Hawaii Revised Statutes, is
4 amended by amending subsection (a), as effective on July 1,
5 2008, to read as follows:

6 "(a) Criminal charges may be instituted by written
7 information for a felony when the charge is a class C felony
8 under section 19-3.5 (voter fraud); section 128D-10 (knowing
9 releases); section 132D-14(a)(1), (2)(A), and (3) (penalties for
10 failure to comply with requirements of sections 132D-7, 132D-10,
11 and 132D-16); section 134-24 (place to keep unloaded firearms
12 other than pistols and revolvers); section 134-7(a) and (b)
13 (ownership or possession prohibited); section 134-8 (prohibited
14 ownership); section 134-9 (licenses to carry); section 134-17(a)
15 (relating to false information or evidence concerning
16 psychiatric or criminal history); section 134-51 (deadly
17 weapons); section 134-52 (switchblade knives); section 134-53
18 (butterfly knives); section 188-23 (possession or use of
19 explosives, electrofishing devices, and poisonous substances in
20 state waters prohibited); section 231-34 (attempt to evade or
21 defeat tax); section 231-36 (false and fraudulent statements);
22 section 245-37 (sale or purchase of packages of cigarettes



1 without stamps); section 245-38 (vending unstamped cigarettes);
2 section 245-51 (sale of export cigarettes prohibited); section
3 245-52 (alteration of packaging prohibited); section 291C-12.5
4 (accidents involving substantial bodily injury); section
5 291E-61.5 (habitually operating a vehicle under the influence of
6 an intoxicant); section 329-41 (prohibited acts B); section
7 329-42 (prohibited acts C); section 329-43.5 (prohibited acts
8 related to drug paraphernalia); section 329C-2 (manufacture,
9 distribution, or possession with intent to distribute an
10 imitation controlled substance to a person under eighteen years
11 of age); section 346-34(d)(2) and (e) (fraud involving food
12 stamps or coupons with a value exceeding \$300); section 346-43.5
13 (medical assistance fraud); section 383-141 (falsely obtaining
14 benefits); section 431:10C-307.7 (insurance fraud); section
15 482D-7 (violation of fineness standards and stamping
16 requirements); section 485A-301 (registration of securities);
17 section 485A-401 (registration of broker-dealers); section
18 485A-402 (registration of agents); section 485A-403
19 (registration of investment advisors); section 485A-404
20 (registration of investment advisor representatives); section
21 485A-405 (registration of federal covered investment advisors);
22 section 485A-501 (general fraud); section 485A-502 (prohibited



1 conduct in providing investment advice); section 707-703
2 (negligent homicide in the second degree); section 707-705
3 (negligent injury in the first degree); section 707-711 (assault
4 in the second degree); section 707-713 (reckless endangering in
5 the first degree); section 707-721 (unlawful imprisonment in the
6 first degree); section 707-726 (custodial interference in the
7 first degree); section 707-757 (electronic enticement of a child
8 in the second degree); section 707-766 (extortion in the second
9 degree); section 708-811 (burglary in the second degree);
10 section 708-812.6 (unauthorized entry in a dwelling); section
11 708-821 (criminal property damage in the second degree); section
12 708-831 (theft in the second degree); section 708-833.5
13 (shoplifting); section 708-835.5 (theft of livestock); section
14 708-836 (unauthorized control of propelled vehicle); section
15 708-836.5 (unauthorized entry into motor vehicle); section
16 708-839.5 (theft of utility services); section 708-839.55
17 (unauthorized possession of confidential personal information);
18 section 708-839.8 (identity theft in the third degree); section
19 708-852 (forgery in the second degree); section 708-854
20 (criminal possession of a forgery device); section 708-858
21 (suppressing a testamentary or recordable instrument); section
22 708-875 (trademark counterfeiting); section 708-891.5 (computer



1 fraud in the second degree); section 708-892.5 (computer damage
2 in the second degree); section 708-895.6 (unauthorized computer
3 access in the second degree); section 708-8100 (fraudulent use
4 of a credit card); section 708-8102 (theft/forgery of credit
5 cards); section 708-8103 (credit card fraud by a provider of
6 goods or services); section 708-8104 (possession of unauthorized
7 credit card machinery or incomplete cards); section 708-8200
8 (cable television service fraud in the first degree); section
9 708-8202 (telecommunication service fraud in the first degree);
10 section 709-903.5 (endangering the welfare of a minor in the
11 first degree); section 709-906 (abuse of family or household
12 members); section 710-1016.3 (obtaining a government-issued
13 identification document under false pretenses in the first
14 degree); section 710-1016.6 (impersonating a law enforcement
15 officer in the first degree); section 710-1017.5 (sale or
16 manufacture of deceptive identification document); section
17 710-1018 (securing the proceeds of an offense); section 710-1021
18 (escape in the second degree); section 710-1023 (promoting
19 prison contraband in the second degree); section 710-1024 (bail
20 jumping in the first degree); section 710-1029 (hindering
21 prosecution in the first degree); section 710-1060 (perjury);
22 section 710-1072.5 (obstruction of justice); section 711-1103



1 (riot); section 711-1109.3 (cruelty to animals/fighting dogs);
2 section 711-1110.9 (violation of privacy in the first degree);
3 section 711-1112 (interference with the operator of a public
4 transit vehicle); section 712-1221 (promoting gambling in the
5 first degree); section 712-1222.5 (promoting gambling aboard
6 ships); section 712-1224 (possession of gambling records in the
7 first degree); section 712-1243 (promoting a dangerous drug in
8 the third degree); section 712-1246 (promoting a harmful drug in
9 the third degree); section 712-1247 (promoting a detrimental
10 drug in the first degree); section 712-1249.6 (promoting a
11 controlled substance in, on, or near schools or school
12 vehicles); section 803-42 (interception, access, and disclosure
13 of wire, oral, or electronic communications, use of pen
14 register, trap and trace device, and mobile tracking device
15 prohibited); section 844D-111 (refusal or failure to provide
16 specimen for forensic identification); or section [~~846E-9(b)~~]
17 846E-9 (failure to comply with covered offender registration
18 requirements)."

19 SECTION 4. Section 806-83, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:

21 "(b) Criminal charges may be instituted by written
22 information for a felony when the charge is a class B felony



1 under section 134-23 (place to keep loaded firearms other than
2 pistols and revolvers); section 134-25 (place to keep pistol or
3 revolver); section 134-26 (carrying or possessing a loaded
4 firearm on a public highway); section 134-7(b) (ownership or
5 possession prohibited); section 329-43.5 (prohibited acts
6 related to drug paraphernalia); section 708-810 (burglary in the
7 first degree); section 708-830 (theft in the first degree);
8 section 708-839.7 (identity theft in the second degree); section
9 708-851 (forgery in the first degree); section 708-891 (computer
10 fraud in the first degree); section 708-892 (computer damage in
11 the first degree); section 712-1240.8 (methamphetamine
12 trafficking in the second degree); section 712-1242 (promoting a
13 dangerous drug in the second degree); section 712-1245
14 (promoting a harmful drug in the second degree); or section 712-
15 1249.5 (commercial promotion of marijuana in the second
16 degree)."

17 SECTION 5. Section 844D-35, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) The person shall have any required blood specimens[~~7~~
20 ~~samples, or print impressions~~] collected within twenty working
21 days of being notified by the court[~~7~~] or a law enforcement
22 agency or other entity authorized by the department. The buccal



1 swab samples or print impressions shall be collected from the
2 person at any time after the person is notified by the court or
3 a law enforcement agency or other entity authorized by the
4 department. The specimens, samples, or print impressions shall
5 be collected in accordance with section 844D-21 at a
6 correctional facility or a state, county, private, or other
7 facility designated for this collection."

8 SECTION 6. Section 844D-37, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) If the person is not confined, the blood specimens[~~7~~
11 ~~samples, or print impressions~~] required by this chapter shall be
12 provided within twenty working days after the person reports to
13 the supervising agent or within five calendar days of notice to
14 the person, whichever occurs first. The buccal swab samples or
15 print impressions required by this chapter shall be provided
16 after the person reports to the supervising agent or after the
17 person is notified of the samples and impressions required by
18 this chapter, whichever occurs first. The person shall report
19 to a correctional facility in the county where the person
20 resides or temporarily is located to have the specimens,
21 samples, or print impressions collected pursuant to this



1 chapter. The specimens, samples, or print impressions shall be
2 collected in accordance with this chapter."

3 SECTION 7. Section 844D-111, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§844D-111 Refusal or failure to provide specimen for**
6 **forensic identification.** (a) A person commits the offense of
7 refusal or failure to provide specimen for forensic
8 identification if the person is required by this chapter to
9 provide any blood specimens, buccal swab samples, or print
10 impressions and [~~intentionally or~~] knowingly or negligently
11 refuses or fails to provide any of the required blood specimens,
12 buccal swab samples, or print impressions after the person has
13 received written notice from the department, the department of
14 public safety, any law enforcement personnel, or an officer of
15 the court that the person is required to provide each and every
16 one of the blood specimens, buccal swab samples, and print
17 impressions required by this chapter.

18 (b) Any person who knowingly violates subsection (a) shall
19 be guilty of a class C felony.

20 [~~(b)~~] (c) Any person who negligently [~~or recklessly fails~~
21 ~~to comply with this section~~] violates subsection (a) shall be
22 guilty of a misdemeanor."



1 SECTION 8. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date; provided that section 2 of
4 this Act shall apply only to pleas entered or accepted after the
5 effective date of this Act. Nothing in section 2 shall require
6 the vacation of judgment and withdrawal of the plea or
7 constitute grounds for finding a prior conviction invalid with
8 respect to pleas entered or accepted prior to the effective date
9 of this Act.

10 SECTION 9. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 10. This Act shall take effect on July 1, 2112,
13 except that section 3 shall take effect on July 1, 2111.



Report Title:
Crime

Description:

Exempts a first offense of excessive speeding from the requirement to post financial responsibility. Clarifies the process by which a court advises a defendant pleading guilty or no contest of the immigration status consequences of the plea. Adds various offenses to the class of offenses that may be charged by information instead of indictment or complaint. Clarifies the process by which certain offenders must submit blood specimens fingerprints, and buccal swab samples for the purpose of forensic identification. Makes it a class C felony to knowingly refuse to give blood specimen, fingerprints, or buccal swab samples for forensic identification purposes. Effective 7/1/2112. (SB2436 HD1)

