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# A BILL FOR AN ACT

RELATING TO CRIME.

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

PART I

SECTION 1. Section 286-124, Hawaii Revised Statutes, is amended to read as follows:

"§286-124 Mandatory revocation of license by a court. (a) Any court of competent jurisdiction shall ~~[forthwith]~~ immediately revoke the license of any driver for a period of up to ten years upon a conviction of the driver of manslaughter resulting from the operation of a motor vehicle.

(b) Any court of competent jurisdiction shall immediately revoke the license of any driver for a period of up to five years upon a conviction of the driver of negligent homicide in the first degree under section 707-702.5 or negligent homicide in the second degree under section 707-703."

SECTION 2. Section 706-624, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) Discretionary conditions. The court may provide, as further conditions of a sentence of probation, to the extent that the conditions are reasonably related to the factors set



1 forth in section 706-606 and to the extent that the conditions  
2 involve only deprivations of liberty or property as are  
3 reasonably necessary for the purposes indicated in section  
4 706-606(2), that the defendant:

5 (a) Serve a term of imprisonment not exceeding two years  
6 in class A felony cases under part IV of chapter  
7 712 [7] and section 707-702, eighteen months in class B  
8 felony cases, one year in class C felony cases, six  
9 months in misdemeanor cases, and five days in petty  
10 misdemeanor cases; provided that notwithstanding any  
11 other provision of law, any order of imprisonment  
12 under this subsection that provides for prison work  
13 release shall require the defendant to pay thirty per  
14 cent of the defendant's gross pay earned during the  
15 prison work release period to satisfy any restitution  
16 order. The payment shall be handled by the adult  
17 probation division and shall be paid to the victim on  
18 a monthly basis;

19 (b) Perform a specified number of hours of services to the  
20 community as described in section 706-605(1)(d);

21 (c) Support the defendant's dependents and meet other  
22 family responsibilities;



- 1 (d) Pay a fine imposed pursuant to section 706-605(1)(b);
- 2 (e) Work conscientiously at suitable employment or pursue  
3 conscientiously a course of study or vocational  
4 training that will equip the defendant for suitable  
5 employment;
- 6 (f) Refrain from engaging in a specified occupation,  
7 business, or profession bearing a reasonably direct  
8 relationship to the conduct constituting the crime or  
9 engage in the specified occupation, business, or  
10 profession only to a stated degree or under stated  
11 circumstances;
- 12 (g) Refrain from frequenting specified kinds of places or  
13 from associating unnecessarily with specified persons,  
14 including [~~but not limited to~~] the victim of the  
15 crime, any witnesses, regardless of whether they  
16 actually testified in the prosecution, law enforcement  
17 officers, co-defendants, or other individuals with  
18 whom contact may adversely affect the rehabilitation  
19 or reformation of the person convicted;
- 20 (h) Refrain from use of alcohol or any use of narcotic  
21 drugs or controlled substances without a prescription;



- 1 (i) Refrain from possessing a firearm, ammunition,  
2 destructive device, or other dangerous weapon;
- 3 (j) Undergo available medical or mental health treatment,  
4 including treatment for substance abuse dependency,  
5 and remain in a specified facility if required for  
6 that purpose;
- 7 (k) Reside in a specified place or area or refrain from  
8 residing in a specified place or area;
- 9 (l) Submit to periodic urinalysis or other similar testing  
10 procedure;
- 11 (m) Refrain from entering specified geographical areas  
12 without the court's permission;
- 13 (n) Refrain from leaving the person's dwelling place  
14 except to go to and from the person's place of  
15 employment, the office of the person's physician or  
16 dentist, the probation office, or any other location  
17 as may be approved by the person's probation officer  
18 pursuant to court order. As used in this paragraph,  
19 "dwelling place" includes the person's yard or, in the  
20 case of condominiums, the common elements;
- 21 (o) Comply with a specified curfew;



1 (p) Submit to monitoring by an electronic monitoring  
2 device; or

3 (q) Satisfy other reasonable conditions as the court may  
4 impose."

5 SECTION 3. Section 706-659, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 **"§706-659 Sentence of imprisonment for class A felony.**

8 Notwithstanding part II; sections 706-605, 706-606, 706-606.5,  
9 706-660.1, 706-661, and 706-662; and any other law to the  
10 contrary, a person who has been convicted of a class A felony,  
11 except class A felonies defined in chapter 712, part IV, or  
12 section 707-702, shall be sentenced to an indeterminate term of  
13 imprisonment of twenty years without the possibility of  
14 suspension of sentence or probation. The minimum length of  
15 imprisonment shall be determined by the Hawaii paroling  
16 authority in accordance with section 706-669. A person who has  
17 been convicted of a class A felony defined in chapter 712, part  
18 IV, or section 707-702, may be sentenced to an indeterminate  
19 term of imprisonment, except as provided for in section  
20 706-660.1 relating to the use of firearms in certain felony  
21 offenses and section 706-606.5 relating to repeat offenders.  
22 When ordering such a sentence, the court shall impose the



1 maximum length of imprisonment which shall be twenty years. The  
2 minimum length of imprisonment shall be determined by the Hawaii  
3 paroling authority in accordance with section 706-669."

4 SECTION 4. This part does not affect rights and duties  
5 that matured, penalties that were incurred, and proceedings that  
6 were begun before its effective date.

7 PART II

8 SECTION 5. Section 291E-44.5, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "§291E-44.5 Ignition interlock permits; driving for  
11 employment.

12 (a) (1) Except as provided in paragraph (2), upon proof that  
13 the respondent has installed an ignition interlock  
14 device in the respondent's vehicle, or pursuant to an  
15 order of eligibility for an ignition interlock permit  
16 issued by the court and proof that the respondent has  
17 installed an ignition interlock device in the  
18 respondent's vehicle, as authorized under section  
19 291E-61(1), the director shall issue an ignition  
20 interlock permit that will allow the respondent to  
21 drive a vehicle equipped with an ignition interlock  
22 device during the revocation period; provided that the



1 director shall issue an ignition interlock permit  
2 within three days of the director's receipt of the  
3 order of eligibility for an ignition interlock permit  
4 and proof that the respondent has installed an  
5 ignition interlock device in the respondent's vehicle;

6 or

7 (2) Notwithstanding any other law to the contrary, the  
8 director shall not issue an ignition interlock permit  
9 to:

10 (A) A respondent whose license is expired, suspended,  
11 or revoked as a result of action other than the  
12 instant revocation[+], except as authorized in  
13 section 291E-61(1);

14 (B) A respondent who does not hold a valid license at  
15 the time of arrest for the violation of section  
16 291E-61; or

17 (C) A respondent who holds either a category 4  
18 license under section 286-102(b) or a commercial  
19 driver's license under section 286-239(b) unless  
20 the ignition interlock permit is restricted to a  
21 category 1, 2, or 3 license under section 286-  
22 102(b).



1 (b) (1) Except as provided in subsection (a) (2), the director  
2 may issue a separate permit authorizing a respondent  
3 to operate a vehicle owned by the respondent's  
4 employer during the period of revocation without  
5 installation of an ignition interlock device if the  
6 respondent is gainfully employed in a position that  
7 requires driving and the respondent will be discharged  
8 if prohibited from driving a vehicle not equipped with  
9 an ignition interlock device.

10 (2) A request made pursuant to paragraph (1) shall be  
11 accompanied by:

12 (A) A sworn statement from the respondent containing  
13 facts establishing that the respondent currently  
14 is employed in a position that requires driving  
15 and that the respondent will be discharged if  
16 prohibited from driving a vehicle not equipped  
17 with an ignition interlock device; and

18 (B) A sworn statement from the respondent's employer  
19 establishing that the employer will, in fact,  
20 discharge the respondent if the respondent is  
21 prohibited from driving a vehicle not equipped  
22 with an ignition interlock device and identifying





1 the specific vehicle and hours of the day the  
2 respondent will drive, not to exceed twelve hours  
3 per day, for purposes of employment.

4 (c) A permit issued pursuant to subsection (b) shall  
5 include restrictions allowing the respondent to drive:

6 (1) Only during specified hours of employment, not to  
7 exceed twelve hours per day, and only for activities  
8 solely within the scope of the employment;

9 (2) Only the vehicle specified; and

10 (3) Only if the permit is kept in the respondent's  
11 possession while operating the employer's vehicle.

12 In addition, the director may impose other appropriate  
13 restrictions.

14 (d) Upon the receipt by the director of an order of  
15 eligibility for an ignition interlock permit and an order  
16 directing the director to issue temporary number plates and  
17 temporary motor vehicle registration, the director shall issue  
18 temporary number plates and temporary motor vehicle registration  
19 to the respondent named in the order. The temporary number  
20 plates and temporary motor vehicle registration shall be for a  
21 period not exceeding ten business days. Upon proof of the  
22 installation of an ignition interlock device and receipt of the



1 order of eligibility for an ignition interlock permit under  
2 subsection (a) (1), the director shall issue the ignition  
3 interlock device and shall suspend the revocation of the motor  
4 vehicle registration and the number plates for the motor vehicle  
5 upon which the respondent has installed the ignition interlock  
6 device."

7 SECTION 6. Section 291E-61, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 **"§291E-61 Operating a vehicle under the influence of an**  
10 **intoxicant.** (a) A person commits the offense of operating a  
11 vehicle under the influence of an intoxicant if the person  
12 operates or assumes actual physical control of a vehicle:

13 (1) While under the influence of alcohol in an amount  
14 sufficient to impair the person's normal mental  
15 faculties or ability to care for the person and guard  
16 against casualty;

17 (2) While under the influence of any drug that impairs the  
18 person's ability to operate the vehicle in a careful  
19 and prudent manner;

20 (3) With .08 or more grams of alcohol per two hundred ten  
21 liters of breath; or



- 1           (4) With .08 or more grams of alcohol per one hundred  
2           milliliters or cubic centimeters of blood.
- 3           (b) A person committing the offense of operating a vehicle  
4 under the influence of an intoxicant shall be sentenced without  
5 possibility of probation or suspension of sentence as follows:
- 6           (1) For the first offense, or any offense not preceded  
7           within a five-year period by a conviction for an  
8           offense under this section or section 291E-4(a):
- 9           (A) A fourteen-hour minimum substance abuse  
10           rehabilitation program, including education and  
11           counseling, or other comparable program deemed  
12           appropriate by the court;
- 13           (B) One-year revocation of license and privilege to  
14           operate a vehicle during the revocation period  
15           and installation during the revocation period of  
16           an ignition interlock device on any vehicle  
17           operated by the person;
- 18           (C) Any one or more of the following:
- 19           (i) Seventy-two hours of community service work;  
20           (ii) Not less than forty-eight hours and not more  
21           than five days of imprisonment; or



- 1 (iii) A fine of not less than \$150 but not more  
2 than \$1,000;
- 3 (D) A surcharge of \$25 to be deposited into the  
4 neurotrauma special fund; and
- 5 (E) A surcharge, if the court so orders, of up to \$25  
6 to be deposited into the trauma system special  
7 fund;
- 8 (2) For an offense that occurs within five years of a  
9 prior conviction for an offense under this section or  
10 section 291E-4(a):
- 11 (A) Revocation for not less than eighteen months nor  
12 more than two years of license and privilege to  
13 operate a vehicle during the revocation period  
14 and installation during the revocation period of  
15 an ignition interlock device on any vehicle  
16 operated by the person;
- 17 (B) Either one of the following:
- 18 (i) Not less than two hundred forty hours of  
19 community service work; or
- 20 (ii) Not less than five days but not more than  
21 thirty days of imprisonment, of which at



- 1                   least forty-eight hours shall be served  
2                   consecutively;
- 3           (C)   A fine of not less than \$500 but not more than  
4                   \$1,500;
- 5           (D)   A surcharge of \$25 to be deposited into the  
6                   neurotrauma special fund; and
- 7           (E)   A surcharge of up to \$50 if the court so orders,  
8                   to be deposited into the trauma system special  
9                   fund;
- 10       (3)   For an offense that occurs within five years of two  
11           prior convictions for offenses under this section or  
12           section 291E-4(a):
- 13           (A)   A fine of not less than \$500 but not more than  
14                   \$2,500;
- 15           (B)   Revocation for two years of license and privilege  
16                   to operate a vehicle during the revocation period  
17                   and installation during the revocation period of  
18                   an ignition interlock device on any vehicle  
19                   operated by the person;
- 20           (C)   Not less than ten days but not more than thirty  
21                   days imprisonment, of which at least forty-eight  
22                   hours shall be served consecutively;



- 1 (D) A surcharge of \$25 to be deposited into the
- 2 neurotrauma special fund; and
- 3 (E) A surcharge of up to \$50 if the court so orders,
- 4 to be deposited into the trauma system special
- 5 fund;
- 6 (4) In addition to a sentence imposed under paragraphs (1)
- 7 through (3), any person eighteen years of age or older
- 8 who is convicted under this section and who operated a
- 9 vehicle with a passenger, in or on the vehicle, who
- 10 was younger than fifteen years of age, shall be
- 11 sentenced to an additional mandatory fine of \$500 and
- 12 an additional mandatory term of imprisonment of forty-
- 13 eight hours; provided that the total term of
- 14 imprisonment for a person convicted under this
- 15 paragraph shall not exceed the maximum term of
- 16 imprisonment provided in paragraph (1), (2), or (3),
- 17 as applicable. Notwithstanding paragraphs (1) and
- 18 (2), the revocation period for a person sentenced
- 19 under this paragraph shall be not less than two years;
- 20 and
- 21 (5) If the person demonstrates to the court that the
- 22 person:



1 (A) Does not own or have the use of a vehicle in  
2 which the person can install an ignition  
3 interlock device during the revocation period; or  
4 (B) Is otherwise unable to drive during the  
5 revocation period,

6 the person shall be absolutely prohibited from driving during  
7 the period of applicable revocation provided in paragraphs (1)  
8 to (4); provided that the court shall not issue an ignition  
9 interlock permit pursuant to subsection (i) and the person shall  
10 be subject to the penalties provided by section 291E-62 if the  
11 person drives during the applicable revocation period.

12 (c) Notwithstanding any other law to the contrary[7]  
13 except for subsection (1), the court shall not issue an ignition  
14 interlock permit to:

15 (1) A defendant whose license is expired, suspended, or  
16 revoked as a result of action other than the instant  
17 offense;

18 (2) A defendant who does not hold a valid license at the  
19 time of the instant offense; or

20 (3) A defendant who holds either a category 4 license  
21 under section 286-102(b) or a commercial driver's  
22 license under section 286-239(b), unless the ignition



1 interlock permit is restricted to a category 1, 2, or  
2 3 license under section 286-102(b).

3 (d) Except as provided in subsection (c), the court may  
4 issue a separate permit authorizing a defendant to operate a  
5 vehicle owned by the defendant's employer during the period of  
6 revocation without installation of an ignition interlock device  
7 if the defendant is gainfully employed in a position that  
8 requires driving and the defendant will be discharged if  
9 prohibited from driving a vehicle not equipped with an ignition  
10 interlock device.

11 (e) A request made pursuant to subsection (d) shall be  
12 accompanied by:

13 (1) A sworn statement from the defendant containing facts  
14 establishing that the defendant currently is employed  
15 in a position that requires driving and that the  
16 defendant will be discharged if prohibited from  
17 driving a vehicle not equipped with an ignition  
18 interlock device; and

19 (2) A sworn statement from the defendant's employer  
20 establishing that the employer will, in fact,  
21 discharge the defendant if the defendant is prohibited  
22 from driving a vehicle not equipped with an ignition





1 interlock device and identifying the specific vehicle  
2 and hours of the day, not to exceed twelve hours per  
3 day, the defendant will drive for purposes of  
4 employment.

5 (f) A permit issued pursuant to subsection (d) shall  
6 include restrictions allowing the defendant to drive:

7 (1) Only during specified hours of employment, not to  
8 exceed twelve hours per day, and only for activities  
9 solely within the scope of the employment;

10 (2) Only the vehicle specified; and

11 (3) Only if the permit is kept in the defendant's  
12 possession while operating the employer's vehicle.

13 (g) Notwithstanding any other law to the contrary, any:

14 (1) Conviction under this section, section 291E-4(a), or  
15 section 291E-61.5;

16 (2) Conviction in any other state or federal jurisdiction  
17 for an offense that is comparable to operating or  
18 being in physical control of a vehicle while having  
19 either an unlawful alcohol concentration or an  
20 unlawful drug content in the blood or urine or while  
21 under the influence of an intoxicant or habitually



1 operating a vehicle under the influence of an  
2 intoxicant; or  
3 (3) Adjudication of a minor for a law violation that, if  
4 committed by an adult, would constitute a violation of  
5 this section or an offense under section 291E-4(a), or  
6 section 291E-61.5,  
7 shall be considered a prior conviction for the purposes of  
8 imposing sentence under this section. Any judgment on a verdict  
9 or a finding of guilty, a plea of guilty or nolo contendere, or  
10 an adjudication, in the case of a minor, that at the time of the  
11 offense has not been expunged by pardon, reversed, or set aside  
12 shall be deemed a prior conviction under this section. No  
13 license and privilege revocation shall be imposed pursuant to  
14 this section if the person's license and privilege to operate a  
15 vehicle has previously been administratively revoked pursuant to  
16 part III for the same act; provided that, if the administrative  
17 revocation is subsequently reversed, the person's license and  
18 privilege to operate a vehicle shall be revoked as provided in  
19 this section. There shall be no requirement for the  
20 installation of an ignition interlock device pursuant to this  
21 section if the requirement has previously been imposed pursuant  
22 to part III for the same act; provided that, if the requirement



1 is subsequently reversed, a requirement for the installation of  
2 an ignition interlock device shall be imposed as provided in  
3 this section.

4 (h) Whenever a court sentences a person pursuant to  
5 subsection (b), it also shall require that the offender be  
6 referred to the driver's education program for an assessment, by  
7 a certified substance abuse counselor, of the offender's  
8 substance abuse or dependence and the need for appropriate  
9 treatment. The counselor shall submit a report with  
10 recommendations to the court. The court shall require the  
11 offender to obtain appropriate treatment if the counselor's  
12 assessment establishes the offender's substance abuse or  
13 dependence. All costs for assessment and treatment shall be  
14 borne by the offender.

15 (i) Upon proof that the defendant has:  
16 (1) Installed an ignition interlock device in any vehicle  
17 the defendant operates pursuant to subsection (b); and  
18 (2) Obtained motor vehicle insurance or self-insurance  
19 that complies with the requirements under either  
20 section 431:10C-104 or section 431:10C-105,



1 the court shall issue an ignition interlock permit that will  
2 allow the defendant to drive a vehicle equipped with an ignition  
3 interlock device during the revocation period.

4 (j) Notwithstanding any other law to the contrary,  
5 whenever a court revokes a person's driver's license pursuant to  
6 this section, the examiner of drivers shall not grant to the  
7 person a new driver's license until the expiration of the period  
8 of revocation determined by the court. After the period of  
9 revocation is completed, the person may apply for and the  
10 examiner of drivers may grant to the person a new driver's  
11 license.

12 (k) Any person sentenced under this section may be ordered  
13 to reimburse the county for the cost of any blood or urine tests  
14 conducted pursuant to section 291E-11. The court shall order  
15 the person to make restitution in a lump sum, or in a series of  
16 prorated installments, to the police department or other agency  
17 incurring the expense of the blood or urine test. Except as  
18 provided in section 291E-5, installation and maintenance of the  
19 ignition interlock device required by subsection (b) shall be at  
20 the defendant's own expense.

21 (l) Any person whose driving privilege is currently  
22 suspended or revoked:



- 1        (1) As a result of an alcohol enforcement contact, as
- 2        defined in section 291E-1, or pursuant to a conviction
- 3        under this section;
- 4        (2) Whose suspension or revocation occurred on or before
- 5        December 31, 2010;
- 6        (3) Who has not been convicted pursuant to section 291E-
- 7        61.5, 291E-62, 707-702.5, or 707-703, or pursuant to
- 8        section 707-702 when the conviction resulted from the
- 9        operation of a motor vehicle;
- 10       (4) Whose suspension or revocation was not permanent; and
- 11       (5) Who is not otherwise disqualified from being issued an
- 12       ignition interlock permit pursuant to subsection (c),
- 13 may by motion apply to the court for an order of eligibility for
- 14 an ignition interlock permit for a period not to exceed the
- 15 remainder of the suspension or revocation period. Upon proof
- 16 that the person meets the eligibility criteria described in
- 17 paragraphs (1) through (5), inclusive, the court shall order the
- 18 order of eligibility for an ignition interlock permit and an
- 19 order to the director to issue temporary motor vehicle
- 20 registration and temporary number plates for the person's motor
- 21 vehicle that were previously seized or revoked pursuant to the
- 22 suspension or revocation for a period not exceeding ten business



1 days. The person shall, within seven business days provide  
2 proof to the director that the person has installed an ignition  
3 interlock device on the person's motor vehicle. A person who  
4 meets the eligibility requirements of paragraphs (1) through  
5 (5), inclusive may also apply to the court for a permit pursuant  
6 to subsection (d) of this section, subject to the procedures and  
7 requirements therein.

8 [~~l~~] (m) As used in this section, the term "examiner of  
9 drivers" has the same meaning as provided in section 286-2."

10 SECTION 7. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 8. This Act shall take effect on July 1, 2051.

13



**Report Title:**

Judicial Sentencing; Penal Code; Manslaughter; Negligent Homicide

**Description:**

Establishes a procedure that allows certain DUI offenders whose privilege to drive was suspended or revoked prior to the effective date of the ignition interlock law to obtain an ignition interlock permit or permit to drive their employers' vehicles, subject to restrictions and limitations. Amends the driver's license revocation provision to require a maximum license revocation period of up to ten years upon conviction of a driver for manslaughter involving the operation of a vehicle. Gives discretion to the courts to revoke the license of any driver for up to five years upon a conviction of a driver of negligent homicide in the first degree or negligent homicide in the second degree. Allows up to two years of imprisonment when a convicted defendant is sentenced to probation for manslaughter. Clarifies that probation is an applicable sentence for manslaughter. Effective July 1, 2051. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

