
A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE SAFETY.

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

1 SECTION 1. Section 291E-1, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Highly intoxicated driver" means a person whose
5 measurable amount of alcohol is .15 or more grams of alcohol per
6 one hundred milliliters or cubic centimeters of the person's
7 blood, or .15 or more grams of alcohol per two hundred ten
8 liters of the person's breath, as measured at the time of the
9 offense, or within three hours of the time of the offense."

10 SECTION 2. Section 291E-3, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§291E-3 Evidence of intoxication.** (a) In any criminal
13 prosecution for a violation of section 291E-61 or 291E-61.5 or
14 in any proceeding under part III:

15 (1) .08 or more grams of alcohol per one hundred
16 milliliters or cubic centimeters of the person's
17 blood;



1 (2) .08 or more grams of alcohol per two hundred ten
 2 liters of the person's breath; or

3 (3) The presence of one or more drugs in an amount
 4 sufficient to impair the person's ability to operate a
 5 vehicle in a careful and prudent manner,
 6 within three hours after the time of the alleged violation as
 7 shown by chemical analysis or other approved analytical
 8 techniques of the person's blood, breath, or urine shall be
 9 competent evidence that the person was under the influence of an
 10 intoxicant at the time of the alleged violation.

11 (b) In any criminal prosecution for a violation of section
 12 291E-61 or 291E-61.5, the amount of alcohol found in the
 13 defendant's blood or breath within three hours after the time of
 14 the alleged violation as shown by chemical analysis or other
 15 approved analytical techniques of the defendant's blood or
 16 breath shall be competent evidence concerning whether the
 17 defendant was under the influence of an intoxicant at the time
 18 of the alleged violation and shall give rise to the following
 19 presumptions:

20 (1) If there were .05 or less grams of alcohol per one
 21 hundred milliliters or cubic centimeters of



1 defendant's blood or .05 or less grams of alcohol per
2 two hundred ten liters of defendant's breath, it shall
3 be presumed that the defendant was not under the
4 influence of alcohol at the time of the alleged
5 violation; and

6 (2) If there were in excess of .05 grams of alcohol per
7 one hundred milliliters or cubic centimeters of
8 defendant's blood or .05 grams of alcohol per two
9 hundred ten liters of defendant's breath, but less
10 than .08 grams of alcohol per one hundred milliliters
11 or cubic centimeters of defendant's blood or .08 grams
12 of alcohol per two hundred ten liters of defendant's
13 breath, that fact may be considered with other
14 competent evidence in determining whether the
15 defendant was under the influence of alcohol at the
16 time of the alleged violation, but shall not of itself
17 give rise to any presumption.

18 (c) In any criminal prosecution for a violation of section
19 291E-61 or 291E-61.5 or in any proceeding under part III:



1 (1) .15 or more grams of alcohol per one hundred
2 milliliters or cubic centimeters of the person's
3 blood; or
4 (2) .15 or more grams of alcohol per two hundred ten
5 liters of the person's breath,
6 within three hours after the time of the alleged violation as
7 shown by chemical analysis or other approved analytical
8 techniques of the person's blood, breath, or urine shall be
9 competent evidence that the person was a highly intoxicated
10 driver at the time of the alleged violation.

11 ~~[(e)]~~ (d) Nothing in this section shall be construed as
12 limiting the introduction, in any criminal proceeding for a
13 violation under section 291E-61 or 291E-61.5 or in any
14 proceeding under part III, of relevant evidence of a person's
15 alcohol concentration or drug content obtained more than three
16 hours after an alleged violation; provided that the evidence is
17 offered in compliance with the Hawaii rules of evidence."

18 SECTION 3. Section 291E-41, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

20 "(b) Except as provided in paragraph ~~[(5)]~~ (6) and in
21 section 291E-44.5, the respondent shall keep an ignition



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1 interlock device installed and operating in any vehicle the
2 respondent operates during the revocation period. Except as
3 provided in section 291E-5, installation and maintenance of the
4 ignition interlock device shall be at the respondent's expense.
5 The periods of administrative revocation, with respect to a
6 license and privilege to operate a vehicle, that shall be
7 imposed under this part are as follows:

- 8 (1) [A] Except as provided in paragraph (5), a one year
9 revocation of license and privilege to operate a
10 vehicle, if the respondent's record shows no prior
11 alcohol enforcement contact or drug enforcement
12 contact during the five years preceding the date the
13 notice of administrative revocation was issued;
- 14 (2) An eighteen month revocation of license and privilege
15 to operate a vehicle, if the respondent's record shows
16 one prior alcohol enforcement contact or drug
17 enforcement contact during the five years preceding
18 the date the notice of administrative revocation was
19 issued;
- 20 (3) A two-year revocation of license and privilege to
21 operate a vehicle, if the respondent's record shows



1 two prior alcohol enforcement contacts or drug
2 enforcement contacts during the five years preceding
3 the date the notice of administrative revocation was
4 issued;

5 (4) A minimum of five years up to a maximum of ten years
6 revocation of license and privilege to operate a
7 vehicle, if the respondent's record shows three or
8 more prior alcohol enforcement contacts or drug
9 enforcement contacts during the ten years preceding
10 the date the notice of administrative revocation was
11 issued;

12 (5) For a respondent who is a highly intoxicated driver,
13 if the respondent's record shows no prior alcohol
14 enforcement contact or drug enforcement contact during
15 the five years preceding the date the notice of
16 administrative revocation was issued, an eighteen
17 month revocation of license and privilege to operate a
18 vehicle and a minimum of six months up to a maximum of
19 one year revocation of the registration of any motor
20 vehicle registered to the highly intoxicated driver;



1 [~~+5~~] (6) For respondents under the age of eighteen years
2 who were arrested for a violation of section 291E-61
3 or 291E-61.5, revocation of license and privilege to
4 operate a vehicle for the appropriate revocation
5 period provided in paragraphs (1) to [~~+4~~] (5) or in
6 subsection (c); provided that the respondent shall be
7 prohibited from driving during the period preceding
8 the respondent's eighteenth birthday and shall
9 thereafter be subject to the ignition interlock
10 requirement of this subsection for the balance of the
11 revocation period; or

12 [~~+6~~] (7) For respondents, other than those excepted
13 pursuant to section 291E-44.5(c), who do not install
14 an ignition interlock device in any vehicle the
15 respondent operates during the revocation period,
16 revocation of license and privilege to operate a
17 vehicle for the period of revocation provided in
18 paragraphs (1) to [~~+5~~] (6) or in subsection (c);
19 provided that:

20 (A) The respondent shall be absolutely prohibited
21 from driving during the revocation period and



1 subject to the penalties provided by section
2 291E-62 if the respondent drives during the
3 revocation period; and

4 (B) The director shall not issue an ignition
5 interlock permit to the respondent pursuant to
6 section 291E-44.5;

7 provided that when more than one administrative revocation,
8 suspension, or conviction arises out of the same arrest, it
9 shall be counted as only one prior alcohol enforcement contact
10 or drug enforcement contact, whichever revocation, suspension,
11 or conviction occurs later."

12 SECTION 4. Section 291E-61, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) A person committing the offense of operating a
15 vehicle under the influence of an intoxicant shall be sentenced
16 without possibility of probation or suspension of sentence as
17 follows:

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



- 1 (A) A fourteen-hour minimum substance abuse
- 2 rehabilitation program, including education and
- 3 counseling, or other comparable program deemed
- 4 appropriate by the court;
- 5 (B) One-year revocation of license and privilege to
- 6 operate a vehicle during the revocation period
- 7 and installation during the revocation period of
- 8 an ignition interlock device on any vehicle
- 9 operated by the person;
- 10 (C) Any one or more of the following:
- 11 (i) Seventy-two hours of community service work;
- 12 (ii) Not less than forty-eight hours and not more
- 13 than five days of imprisonment; or
- 14 (iii) A fine of not less than \$150 but not more
- 15 than \$1,000;
- 16 (D) A surcharge of \$25 to be deposited into the
- 17 neurotrauma special fund; and
- 18 (E) A surcharge, if the court so orders, of up to \$25
- 19 to be deposited into the trauma system special
- 20 fund;



- 1 (2) For an offense that occurs within five years of a
- 2 prior conviction for an offense under this section or
- 3 section 291E-4(a):
- 4 (A) Revocation for not less than eighteen months nor
- 5 more than two years of license and privilege to
- 6 operate a vehicle during the revocation period
- 7 and installation during the revocation period of
- 8 an ignition interlock device on any vehicle
- 9 operated by the person;
- 10 (B) Either one of the following:
- 11 (i) Not less than two hundred forty hours of
- 12 community service work; or
- 13 (ii) Not less than five days but not more than
- 14 thirty days of imprisonment, of which at
- 15 least forty-eight hours shall be served
- 16 consecutively;
- 17 (C) A fine of not less than \$500 but not more than
- 18 \$1,500;
- 19 (D) A surcharge of \$25 to be deposited into the
- 20 neurotrauma special fund; and



1 (E) A surcharge of up to \$50 if the court so orders,
2 to be deposited into the trauma system special
3 fund;

4 (3) For an offense that occurs within five years of two
5 prior convictions for offenses under this section or
6 section 291E-4(a):

7 (A) A fine of not less than \$500 but not more than
8 \$2,500;

9 (B) Revocation for two years of license and privilege
10 to operate a vehicle during the revocation period
11 and installation during the revocation period of
12 an ignition interlock device on any vehicle
13 operated by the person;

14 (C) Not less than ten days but not more than thirty
15 days imprisonment, of which at least forty-eight
16 hours shall be served consecutively;

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

19 (E) A surcharge of up to \$50 if the court so orders,
20 to be deposited into the trauma system special
21 fund;



1 (4) For a first offense committed by a highly intoxicated
2 driver, or for any offense committed by a highly
3 intoxicated driver not preceded within a five-year
4 period by a conviction for an offense under this
5 section or section 291E-4(a):

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

10 (B) Revocation for eighteen months of license and
11 privilege to operate a vehicle during the
12 revocation period and installation during the
13 revocation period of an ignition interlock device
14 on any vehicle operated by the person;

15 (C) Any one or more of the following:
16 (i) Seventy-two hours of community service work;
17 (ii) Not less than forty-eight hours and not more
18 than ten days of imprisonment; or
19 (iii) A fine of not less than \$150 but not more
20 than \$1,000;



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



1 ~~[(5)]~~ (6) If the person demonstrates to the court that the
2 person:
3 (A) Does not own or have the use of a vehicle in
4 which the person can install an ignition
5 interlock device during the revocation period; or
6 (B) Is otherwise unable to drive during the
7 revocation period,
8 the person shall be absolutely prohibited from driving during
9 the period of applicable revocation provided in paragraphs (1)
10 to ~~[(4)]~~ (5); provided that the court shall not issue an
11 ignition interlock permit pursuant to subsection (i) and the
12 person shall be subject to the penalties provided by section
13 291E-62 if the person drives during the applicable revocation
14 period."

15 SECTION 5. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 6. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

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1 SECTION 7. This Act shall take effect on July 1, 2018.

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INTRODUCED BY: DM

100B DM

AKRQ

Nadine K. Peterson

Chen Cole

John

Sam Quirk

AG

Richard

Greg Peterson

T. Stahle

[Signature]



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Report Title:

Motor Vehicle Safety; Highly Intoxicated Drivers

Description:

Adds definition for highly intoxicated driver. Establishes evidence and sentencing parameters for highly intoxicated drivers. Establishes minimum and maximum administrative license revocation periods for highly intoxicated drivers.

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

