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## A BILL FOR AN ACT

RELATING TO AUTHORIZING OVUII BLOOD DRAWS BY PARAMEDICS.

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

1           SECTION 1. The legislature finds that in the last ten  
2 years, over three-hundred and fifty individuals in Hawaii lost  
3 their lives in alcohol-related car accidents. Preventative  
4 measures, such as proactive policing and education, are vital to  
5 reducing deaths caused by intoxicated drivers. But when  
6 preventative measures fail, administration of justice is  
7 crucial.

8           Police must have access to the most precise evidence  
9 possible when investigating an alcohol-related car accident and  
10 a potential criminal charge of operating a Vehicle Under the  
11 Influence of an Intoxicant ("OVUII"). Currently, the police  
12 officer will take the suspect to a hospital or medical facility  
13 when a suspect is arrested for driving under the influence of  
14 drugs or alcohol. An officer may have to wait an hour or more  
15 before blood is drawn. Because the body can metabolize alcohol  
16 as fast as .02 percent per hour, timely testing is necessary to  
17 achieve exact blood alcohol content levels at the time of the



1 accident. Justice for victims relies on fast and accurate  
2 evidence. The purpose of this Act is to allow emergency medical  
3 services personnel to draw blood at the scene of a car accident  
4 at the request of a police officer if conditions for drawing  
5 blood meet the existing blood draw qualifications under §291E-  
6 21.

7 SECTION 2. Section 291E-12, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§291E-12 **Persons qualified to take blood specimen.** No  
10 person, other than a physician, physician assistant, registered  
11 nurse, [~~or~~] phlebotomist deemed qualified by the director of a  
12 clinical laboratory that is licensed by the State, [~~or~~] person  
13 licensed in a clinical laboratory occupation under section 321-  
14 13, or emergency medical services personnel licensed under  
15 section 453-31, may withdraw blood for the purpose of  
16 determining the alcohol concentration or drug content therein.  
17 This limitation shall not apply to the taking of a breath or  
18 urine specimen."

19 SECTION 3. Section 291E-13, Hawaii Revised Statutes, is  
20 amended to read as follows:



1           "§291E-13 Additional tests. The person tested may choose  
2 any physician, physician assistant, registered nurse, [~~or~~]  
3 person licensed in a clinical laboratory occupation under  
4 section 321-13, or emergency medical services personnel licensed  
5 under section 453-31, to withdraw blood and also may choose any  
6 qualified person to administer a test or tests in addition to  
7 any administered at the direction of a law enforcement officer.  
8 The result of the test or tests may be used as provided in  
9 section 291E-3. The failure or inability to obtain an  
10 additional test by a person shall not preclude the admission of  
11 the test or tests administered at the direction of a law  
12 enforcement officer. Upon the request of the person who is  
13 tested, full information concerning the test or tests  
14 administered shall be made available` to that person."

15           SECTION 4. Section 291E-21, Hawaii Revised Statutes, is  
16 amended by amending subsection (b) to read as follows:

17           "(b) If a health care provider who is providing medical  
18 care, in a health care facility, or as part of their duties of  
19 employment by an emergency ambulance service, to any person  
20 involved in a vehicle collision:



- 1           (1) Becomes aware, as a result of any blood or urine test  
2           performed in the course of medical treatment, that:
- 3           (A) The alcohol concentration in the person's blood  
4           meets or exceeds the amount specified in section  
5           291E-61(a)(4) or 291E-61.5(a)(2)(D); or
- 6           (B) The person's blood or urine contains one or more  
7           drugs that are capable of impairing a person's  
8           ability to operate a vehicle in a careful and  
9           prudent manner; and
- 10          (2) Has a reasonable belief that the person was the  
11          operator of a vehicle involved in the collision,  
12          the health care provider shall notify, as soon as reasonably  
13          possible, any law enforcement officer present at the health care  
14          facility or at the site of a medical emergency to investigate  
15          the collision. If no law enforcement officer is present, the  
16          health care provider shall notify the county police department  
17          in the county where the collision occurred. If the health care  
18          provider is aware of any blood or urine test result, as provided  
19          in paragraph (1), but lacks information to form a reasonable  
20          belief as to the identity of the operator involved in a vehicle  
21          collision, as provided in paragraph (2), then the health care



1 provider shall give notice to a law enforcement officer present  
2 or to the county police department, as applicable, for each  
3 person involved in a vehicle collision whose alcohol  
4 concentration in the person's blood meets or exceeds the amount  
5 specified in section 291E-61(a)(4) or 291E-61.5(a)(2)(D) or  
6 whose blood or urine contains one or more drugs. The notice by  
7 the health care provider shall consist of the name of the person  
8 being treated, the blood alcohol concentration or drug content  
9 disclosed by the test, and the date and time of the  
10 administration of the test. This notice shall be deemed to  
11 satisfy the intoxication element necessary to establish the  
12 probable cause requirement set forth in subsection (c)."

13 SECTION 5. Section 291E-21, Hawaii Revised Statutes, is  
14 amended by amending subsection (d) to read as follows:

15 "(d) The law enforcement officer shall make the request  
16 under subsection (c) to the emergency ambulance service  
17 personnel, hospital, or medical facility treating the person  
18 from whom the blood or urine is to be recovered. If the person  
19 is not injured or refuses to be treated for any injury, the law  
20 enforcement officer shall make the request of a blood or urine  
21 sample under subsection (c) to a person authorized under section



1 291E-12; provided that a law enforcement officer may transport  
2 that person to another police facility or a hospital or medical  
3 facility that is capable of conducting a breath, blood, or urine  
4 test. Upon the request of the law enforcement officer that  
5 blood or urine be recovered pursuant to this section, and except  
6 where the person to perform the withdrawal of a blood sample or  
7 to obtain a urine sample or the responsible attending ~~[personnel~~  
8 ~~at the]~~ emergency ambulance service, hospital, or medical  
9 facility personnel ~~[determines]~~ determine in good faith that  
10 recovering or attempting to recover blood or urine from the  
11 person presents an imminent threat to the health of the medical  
12 personnel or others, the person authorized under section 291E-12  
13 shall:

- 14 (1) Recover the sample in compliance with section 321-161;  
15 and  
16 (2) Provide the law enforcement officer with the blood or  
17 urine sample requested."

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

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

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# H.B. NO. 2251

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# H.B. NO. 2251

**Report Title:**

OVUII; Operating a Vehicle Under the Influence of an Intoxicant;  
Paramedics; Emergency Medical Services; Blood Specimen

**Description:**

Allows emergency medical services personnel to draw blood at the scene of an automobile accident potentially involving an intoxicated driver, if conditions of existing blood draw statute §291E-21 are met.

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

