

JAN 17 2020

A BILL FOR AN ACT

RELATING TO IGNITION INTERLOCK DEVICES.

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

1 SECTION 1. Section 291E-61, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) A person committing the offense of operating a
4 vehicle under the influence of an intoxicant shall be sentenced
5 without possibility of probation or suspension of sentence as
6 follows:

7 (1) For the first offense, or any offense not preceded
8 within a ten-year period by a conviction for an
9 offense under this section or section 291E-4(a):

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

14 (B) One-year revocation of license and privilege to
15 operate a vehicle during the revocation period
16 and installation during the revocation period of



- 1 an ignition interlock device on any vehicle
2 operated by the person;
- 3 (C) Any one or more of the following:
- 4 (i) Seventy-two hours of community service work;
- 5 (ii) No less than forty-eight hours and no more
6 than five days of imprisonment; or
- 7 (iii) A fine of no less than \$250 but no more than
8 \$1,000;
- 9 (D) A surcharge of \$25 to be deposited into the
10 neurotrauma special fund; and
- 11 (E) A surcharge, if the court so orders, of up to \$25
12 to be deposited into the trauma system special
13 fund;
- 14 (2) For an offense that occurs within ten years of a prior
15 conviction for an offense under this section or
16 section 291E-4(a):
- 17 (A) Revocation for no less than twenty-four months
18 nor more than three years of license and
19 privilege to operate a vehicle during the
20 revocation period and installation during the



1 revocation period of an ignition interlock device
2 on any vehicle operated by the person;

3 (B) Either one of the following:

4 (i) No less than two hundred forty hours of
5 community service work; or

6 (ii) No less than five days but no more than
7 thirty days of imprisonment, of which at
8 least forty-eight hours shall be served
9 consecutively; provided that the term of
10 imprisonment shall be consecutive for any
11 person convicted under this section for the
12 same conduct or arising from a conviction
13 under section 291E-62;

14 (C) A fine of no less than \$1,000 but no more than
15 \$3,000;

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

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



1 (3) In addition to a sentence imposed under paragraphs (1)
2 and (2), any person eighteen years of age or older who
3 is convicted under this section and who operated a
4 vehicle with a passenger, in or on the vehicle, who
5 was younger than fifteen years of age, shall be
6 sentenced to an additional mandatory fine of \$500 and
7 an additional mandatory term of imprisonment of forty-
8 eight hours; provided that the total term of
9 imprisonment for a person convicted under this
10 paragraph shall not exceed the maximum term of
11 imprisonment provided in paragraph (1) or (2), as
12 applicable. Notwithstanding paragraphs (1) and (2),
13 the revocation period for a person sentenced under
14 this paragraph shall be no less than two years; and
15 (4) If the person demonstrates to the court that the
16 person:
17 (A) Does not own or have the use of a vehicle in
18 which the person can install an ignition
19 interlock device during the revocation period; or
20 (B) Is otherwise unable to drive during the
21 revocation period,



1 the person shall be absolutely prohibited from driving
2 during the period of applicable revocation provided in
3 paragraphs (1) to (3); provided that the court shall
4 not issue an ignition interlock permit pursuant to
5 subsection (i) and the person shall be subject to the
6 penalties provided by section 291E-62 if the person
7 drives during the applicable revocation period."

8 SECTION 2. Section 291E-61.5, Hawaii Revised Statutes, is
9 amended by amending subsection (d) to read as follows:

10 "(d) For a conviction under this section, the sentence
11 shall be either:

12 (1) An indeterminate term of imprisonment of five years;
13 provided that the term of imprisonment shall be
14 consecutive for any person convicted under this
15 section for the same conduct or arising from a
16 conviction under section 291E-62; or

17 (2) A term of probation of five years, with conditions to
18 include:

19 (A) Mandatory revocation of license and privilege to
20 operate a vehicle for a period no less than three
21 years but no more than five years;



1 (B) No less than ten days imprisonment, of which at
2 least forty-eight hours shall be served
3 consecutively;

4 (C) A fine of no less than \$2,000 but no more than
5 \$5,000;

6 (D) Referral to a certified substance abuse counselor
7 as provided in section 291E-61(d);

8 (E) A surcharge of \$25 to be deposited into the
9 neurotrauma special fund; and

10 (F) May be charged a surcharge of up to \$50 to be
11 deposited into the trauma system special fund if
12 the court so orders.

13 In addition to the foregoing, any vehicle owned and operated by
14 the person committing the offense shall be subject to forfeiture
15 pursuant to chapter 712A; provided that the department of
16 transportation shall provide storage for vehicles forfeited
17 under this subsection."

18 SECTION 3. Section 291E-62, Hawaii Revised Statutes, is
19 amended as follows:

20 1. By amending subsection (a) to read:



1 (a) No person whose license and privilege to operate a
2 vehicle have been revoked, suspended, or otherwise restricted
3 pursuant to this section or to part III or section 291E-61 or
4 291E-61.5, or to part VII or part XIV of chapter 286 or section
5 200-81, 291-4, 291-4.4, 291-4.5, or 291-7 as those provisions
6 were in effect on December 31, 2001, shall operate or assume
7 actual physical control of any vehicle:

8 (1) In violation of any restrictions placed on the
9 person's license;

10 (2) While the person's license or privilege to operate a
11 vehicle remains suspended or revoked;

12 (3) Without installing an ignition interlock device
13 required by this chapter; or

14 (4) With an ignition interlock permit unless the person
15 has the ignition interlock permit and government
16 issued identification in the person's immediate
17 possession. For purposes of this paragraph,
18 "government issued identification" means:

19 (i) A passport issued by the United States of
20 America;



- 1 (ii) A driver's license issued pursuant to any
- 2 state or District of Columbia law;
- 3 (iii) An identification card issued by any state
- 4 or local government or the Bureau of Indian
- 5 Affairs; or
- 6 (iv) An identification card issued by any branch
- 7 of the Armed Forces of the United States of
- 8 America."

9 2. By amending subsection (c) to read:

10 "(c) Any person convicted of violating this section shall

11 be sentenced as follows without possibility of probation or

12 suspension of sentence:

13 (1) For a first offense, or any offense not preceded

14 within a [~~five-year~~] ten-year period by conviction for

15 an offense under this section, section 291E-66, or

16 section 291-4.5 as that section was in effect on

17 December 31, 2001:

18 (A) A term of imprisonment of not less than three

19 consecutive days but not more than thirty days;

20 (B) A fine of not less than \$250 but not more than

21 \$1,000;



- 1 (C) Revocation of license and privilege to operate a
2 vehicle for an additional year; and
- 3 (D) Loss of the privilege to operate a vehicle
4 equipped with an ignition interlock device, if
5 applicable;
- 6 (2) For an offense that occurs within [~~five~~] ten years of
7 a prior conviction for an offense under this section,
8 section 291E-66, or section 291-4.5 as that section
9 was in effect on December 31, 2001:
- 10 (A) Thirty days imprisonment;
- 11 (B) A \$1,000 fine;
- 12 (C) Revocation of license and privilege to operate a
13 vehicle for an additional two years; and
- 14 (D) Loss of the privilege to operate a vehicle
15 equipped with an ignition interlock device, if
16 applicable; and
- 17 (3) For an offense that occurs within [~~five~~] ten years of
18 two or more prior convictions for offenses under this
19 section, section 291E-66, or section 291-4.5 as that
20 section was in effect on December 31, 2001, or any
21 combination thereof:



- 1 (A) One year imprisonment;
- 2 (B) A \$2,000 fine;
- 3 (C) Permanent revocation of the person's license and
- 4 privilege to operate a vehicle; and
- 5 (D) Loss of the privilege to operate a vehicle
- 6 equipped with an ignition interlock device, if
- 7 applicable."

8 SECTION 4. Section 291E-66, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) No person whose driving privileges have been
11 restricted to operating a vehicle equipped with an ignition
12 interlock device shall knowingly:

13 (1) Request, solicit, direct, or authorize another person
14 to blow into an ignition interlock device or start a
15 vehicle equipped with the device for the purpose of
16 providing an operable vehicle to a person who has been
17 restricted by law to operating only a vehicle so
18 equipped; [~~or~~]

19 (2) Tamper with an ignition interlock device with the
20 intent to render it inaccurate or inoperable[~~;~~]; or



1 (3) Obscure a camera lens associated with an ignition
 2 interlock device."

3 SECTION 5. Statutory material to be repealed is bracketed
 4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: *Francis R. Suroya*

~~*AC X...*~~

[Signature]
Michelle N. Kedari
[Signature]



S.B. NO. 2329

Report Title:

Ignition Interlock Devices; Sentencing

Description:

Requires consecutive terms of imprisonment for anyone convicted as a repeat or habitual offender if arising from same conduct as conviction for operating a vehicle without an interlock ignition device. Requires any person operating a vehicle with an ignition interlock to have government issued identification in their immediate possession. Expands the lookback period under provisions relating to ignition interlock requirements from five to ten years. Expands the offense of circumventing or tampering with an ignition interlock to include obscuring the camera lens.

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

