
A BILL FOR AN ACT

RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN
INTOXICANT.

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

1 SECTION 1. The legislature finds that highway safety in
2 Hawai'i is compromised by intoxicated drivers who continue to
3 jeopardize the safety of all road users. The police continue
4 their efforts to make our roads safer by arresting those
5 individuals suspected of driving while impaired. Prosecuting
6 these cases can be hampered when test results are not available
7 in time for the respective hearings and also by expensive court
8 costs.

9 The legislature notes that presently, the testing of blood
10 and urine samples obtained for the purpose of prosecuting cases
11 involving the operation of a motor vehicle under the influence
12 of an intoxicant is largely performed by private out-of-state
13 laboratories. Limited alcohol blood testing is performed by the
14 city and county of Honolulu laboratory. Testing performed by
15 out-of-state private laboratories takes time to complete, and



1 can lead to test results not being timely provided for trial
2 resulting in a case dismissal.

3 The legislature recognizes that drug and alcohol testing
4 performed by private laboratories is costly. Further, costs can
5 also balloon in court cases where the prosecution subpoenas
6 experts and lab personnel to testify, especially if these
7 witnesses are from private laboratories located out-of-state.
8 Other states have found that costs for drunk and drugged driving
9 cases are greatly reduced when government-run laboratories
10 perform the testing and confirmations that will be used in
11 court. Some of these state-run laboratories perform other
12 testing functions such as workplace drug testing, post-mortem
13 drug testing, and inmate and parolee testing. These types of
14 testing functions can further reduce costs for those states.

15 The legislature further finds that having an in-state drug
16 and alcohol toxicology testing laboratory would be part of a
17 multi-pronged approach to addressing impaired driving in the
18 State. This dangerous and one hundred per cent preventable
19 driving behavior can be further curbed with strict enforcement
20 by law enforcement officers, public education, and training.

21 The purpose of this Act is to:



- 1 (1) Establish the state drug and alcohol toxicology
2 testing laboratory special fund to support a state
3 drug and alcohol toxicology testing laboratory;
- 4 (2) Specify that moneys in the state highway fund may be
5 expended for the cost of establishing a state drug and
6 alcohol toxicology testing laboratory;
- 7 (3) Require that fines imposed on offenders convicted of
8 repeat or habitual offenses involving operating a
9 vehicle under the influence of an intoxicant or
10 convicted of operating a vehicle after a license and
11 privilege have been suspended or revoked for operating
12 a vehicle under the influence of an intoxicant be
13 deposited into the state drug and alcohol toxicology
14 testing laboratory special fund; and
- 15 (4) Require the department of health to submit reports to
16 the legislature on expenditures from the state drug
17 and alcohol toxicology testing laboratory special
18 fund.

19 SECTION 2. Chapter 291E, Hawaii Revised Statutes, is
20 amended by adding a new section to part I to be appropriately
21 designated and to read as follows:



1 "§291E- State drug and alcohol toxicology testing
2 laboratory special fund; established. (a) There is established
3 in the state treasury a state drug and alcohol toxicology
4 testing laboratory special fund, into which shall be deposited:
5 (1) All fines collected pursuant to sections
6 291E-61(b)(2)(C), 291E-61.5(c)(2)(C), and 291E-62(c);
7 (2) Moneys appropriated by the legislature to the fund;
8 (3) Other grants and gifts made to the fund; and
9 (4) Any income and interest earned on the balance of the
10 fund.
11 (b) Moneys in the state drug and alcohol toxicology
12 testing laboratory special fund shall be administered and
13 expended by the department of health to support a state drug and
14 alcohol toxicology testing laboratory."

15 SECTION 3. Section 248-9, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) Moneys in the state highway fund may be expended for
18 the following purposes:

19 (1) To pay the costs of operation, maintenance, and repair
20 of the state highway system, including without



- 1 limitation, the cost of equipment and general
2 administrative overhead;
- 3 (2) To pay the costs of acquisition [~~+~~]including, real
4 property and interests therein[~~+~~], planning,
5 designing, construction, and reconstruction of the
6 state highway system and bikeways, including[~~+~~]
7 without limitation, the cost of equipment and general
8 administrative overhead;
- 9 (3) To reimburse the general fund for interest on and
10 principal of general obligation bonds issued to
11 finance highway projects where the bonds are
12 designated to be reimbursable out of the state highway
13 fund; [~~and~~]
- 14 (4) To pay the costs of construction, maintenance, and
15 repair of county roads; provided that none of the
16 funds expended on a county road or program shall be
17 federal funds when [~~such~~] the expenditure would cause
18 a violation of federal law or a federal grant
19 agreement [~~+~~]; and
- 20 (5) To pay the cost of establishing a state drug and
21 alcohol toxicology testing laboratory to support the



1 prosecution of offenses relating to operation of a
2 motor vehicle under the influence of an intoxicant."

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

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

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

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

16 (B) One-year revocation of license and privilege to
17 operate a vehicle during the revocation period
18 and installation during the revocation period of
19 an ignition interlock device on any vehicle
20 operated by the person;

21 (C) Any one or more of the following:



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



- 1 (i) No less than two hundred forty hours of
- 2 community service work; or
- 3 (ii) No less than five days but no more than
- 4 thirty days of imprisonment, of which at
- 5 least forty-eight hours shall be served
- 6 consecutively;
- 7 (C) A fine of no less than \$1,000 but no more than
- 8 \$3,000 [7], to be deposited into the state drug
- 9 and alcohol toxicology testing laboratory special
- 10 fund;
- 11 (D) A surcharge of \$25 to be deposited into the
- 12 neurotrauma special fund; and
- 13 (E) A surcharge of up to \$50, if the court so orders,
- 14 to be deposited into the trauma system special
- 15 fund;
- 16 (3) In addition to a sentence imposed under paragraphs (1)
- 17 and (2), any person eighteen years of age or older who
- 18 is convicted under this section and who operated a
- 19 vehicle with a passenger, in or on the vehicle, who
- 20 was younger than fifteen years of age, shall be
- 21 sentenced to an additional mandatory fine of \$500 and



1 an additional mandatory term of imprisonment of forty-
2 eight hours; provided that the total term of
3 imprisonment for a person convicted under this
4 paragraph shall not exceed the maximum term of
5 imprisonment provided in paragraph (1) or (2), as
6 applicable. Notwithstanding paragraphs (1) and (2),
7 the revocation period for a person sentenced under
8 this paragraph shall be no less than two years; and
9 (4) If the person demonstrates to the court that the
10 person:
11 (A) Does not own or have the use of a vehicle in
12 which the person can install an ignition
13 interlock device during the revocation period; or
14 (B) Is otherwise unable to drive during the
15 revocation period,
16 the person shall be [~~absolutely~~] prohibited from
17 driving during the period of applicable revocation
18 provided in paragraphs (1) to (3); provided that the
19 court shall not issue an ignition interlock permit
20 pursuant to subsection (i) and the person shall be
21 subject to the penalties provided by section 291E-62



1 if the person drives during the applicable revocation
2 period."

3 SECTION 5. Section 291E-61.5, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) For a conviction under this section, the sentence
6 shall be either:

7 (1) An indeterminate term of imprisonment of five years;
8 or

9 (2) A term of probation of five years, with conditions to
10 include:

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

14 (B) No less than ten days imprisonment, of which at
15 least forty-eight hours shall be served
16 consecutively;

17 (C) A fine of no less than \$2,000 but no more than
18 \$5,000 [7], to be deposited into the state drug
19 and alcohol toxicology testing laboratory special
20 fund;



- 1 (D) Referral to a certified substance abuse counselor
2 as provided in subsection (d);
- 3 (E) A surcharge of \$25 to be deposited into the
4 neurotrauma special fund; and
- 5 (F) [~~May be charged a~~] A surcharge of up to \$50 to be
6 deposited into the trauma system special fund if
7 the court so orders.

8 In addition to the foregoing, any vehicle owned and operated by
9 the person committing the offense shall be subject to forfeiture
10 pursuant to chapter 712A; provided that the department of
11 transportation shall provide storage for vehicles forfeited
12 under this subsection."

13 SECTION 6. Section 291E-62, Hawaii Revised Statutes, is
14 amended by amending subsection (c) to read as follows:

15 "(c) Any person convicted of violating this section shall
16 be sentenced as follows without possibility of probation or
17 suspension of sentence:

- 18 (1) For a first offense, or any offense not preceded
19 within a five-year period by conviction for an offense
20 under this section, section 291E-66, or section



1 291-4.5 as that section was in effect on December 31,
2 2001:

3 (A) A term of imprisonment of [~~not~~] no less than
4 three consecutive days but [~~not~~] no more than
5 thirty days;

6 (B) A fine of [~~not~~] no less than \$250 but [~~not~~] no
7 more than \$1,000 [~~7~~], to be deposited into the
8 state drug and alcohol toxicology testing
9 laboratory special fund;

10 (C) Revocation of license and privilege to operate a
11 vehicle for an additional year; and

12 (D) Loss of the privilege to operate a vehicle
13 equipped with an ignition interlock device, if
14 applicable;

15 (2) For an offense that occurs within five years of a
16 prior conviction for an offense under this section,
17 section 291E-66, or section 291-4.5 as that section
18 was in effect on December 31, 2001:

19 (A) Thirty days imprisonment;



1 (B) A \$1,000 fine[+], to be deposited into the state
2 drug and alcohol toxicology testing laboratory
3 special fund;

4 (C) Revocation of license and privilege to operate a
5 vehicle for an additional two years; and

6 (D) Loss of the privilege to operate a vehicle
7 equipped with an ignition interlock device, if
8 applicable; and

9 (3) For an offense that occurs within five years of two or
10 more prior convictions for offenses under this
11 section, section 291E-66, or section 291-4.5 as that
12 section was in effect on December 31, 2001, or any
13 combination thereof:

14 (A) One year imprisonment;

15 (B) A \$2,000 fine[+], to be deposited into the state
16 drug and alcohol toxicology testing laboratory
17 special fund;

18 (C) Permanent revocation of the person's license and
19 privilege to operate a vehicle; and



1 (D) Loss of the privilege to operate a vehicle
2 equipped with an ignition interlock device, if
3 applicable."

4 SECTION 7. Section 706-643, Hawaii Revised Statutes, is
5 amended by amending subsection (2) to read as follows:

6 "(2) All fines and other final payments received by a
7 clerk or other officer of a court shall be accounted for, with
8 the names of persons making payment, and the amount and date
9 thereof, being recorded. All such funds shall be deposited with
10 the director of finance to the credit of the general fund of the
11 State. With respect to fines and bail forfeitures that are
12 proceeds of the wildlife revolving fund under section
13 183D-10.5[7]; fines that are proceeds of the state drug and
14 alcohol toxicology testing laboratory special fund under
15 sections 291E-61(b)(2)(C), 291E-61.5(c)(2)(C), and 291E-62(c);
16 and fines that are proceeds of the compliance resolution fund
17 under sections 26-9(o) and 431:2-410, the director of finance
18 shall transmit the fines and forfeitures to the respective
19 funds."

20 SECTION 8. No later than thirty days prior to the
21 convening of each of the regular sessions of 2023 and 2024, the



1 department of health shall submit a report to the legislature on
2 the expenditures made from the state drug and alcohol toxicology
3 testing laboratory special fund, including the amounts expended
4 and the purpose of each expenditure as it relates to supporting
5 the state drug and alcohol toxicology testing laboratory.

6 SECTION 9. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 10. This Act shall take effect on May 6, 2137.



Report Title:

OVVIII Offenses; DOH; State Drug and Alcohol Toxicology Testing Laboratory; Special Fund

Description:

Establishes a state drug and alcohol toxicology testing laboratory special fund, to be administered by DOH. Deposits into the special fund fines imposed on offenders convicted of certain offenses involving operation of a vehicle under the influence of an intoxicant. Requires expenditure reports to the legislature. Effective 5/6/2137. (SD2)

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

