

JAN 22 2021

---

---

# 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. Section 853-4, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3           "(a) This chapter shall not apply when:

4           (1) The offense charged involves the intentional, knowing,  
5           reckless, or negligent killing of another person;

6           (2) The offense charged is:

7           (A) A felony that involves the intentional, knowing,  
8           or reckless bodily injury, substantial bodily  
9           injury, or serious bodily injury of another  
10           person; or

11           (B) A misdemeanor or petty misdemeanor that carries a  
12           mandatory minimum sentence and that involves the  
13           intentional, knowing, or reckless bodily injury,  
14           substantial bodily injury, or serious bodily  
15           injury of another person;



# S.B. NO. 412

1 provided that the prohibition in this paragraph shall  
2 not apply to offenses described in section  
3 709-906(18);

4 (3) The offense charged involves a conspiracy or  
5 solicitation to intentionally, knowingly, or  
6 recklessly kill another person or to cause serious  
7 bodily injury to another person;

8 (4) The offense charged is a class A felony;

9 (5) The offense charged is nonprobationable;

10 (6) The defendant has been convicted of any offense  
11 defined as a felony by the Hawaii Penal Code or has  
12 been convicted for any conduct that if perpetrated in  
13 this State would be punishable as a felony;

14 (7) The defendant is found to be a law violator or  
15 delinquent child for the commission of any offense  
16 defined as a felony by the Hawaii Penal Code or for  
17 any conduct that if perpetrated in this State would  
18 constitute a felony;

19 (8) The defendant has a prior conviction for a felony  
20 committed in any state, federal, or foreign  
21 jurisdiction;



# S.B. NO. 412

- 1           (9) A firearm was used in the commission of the offense
- 2                    charged;
- 3           (10) The defendant is charged with the distribution of a
- 4                    dangerous, harmful, or detrimental drug to a minor;
- 5           (11) The defendant has been charged with a felony offense
- 6                    and has been previously granted deferred acceptance of
- 7                    guilty plea or no contest plea for a prior offense,
- 8                    regardless of whether the period of deferral has
- 9                    already expired;
- 10          (12) The defendant has been charged with a misdemeanor
- 11                    offense and has been previously granted deferred
- 12                    acceptance of guilty plea or no contest plea for a
- 13                    prior felony, misdemeanor, or petty misdemeanor for
- 14                    which the period of deferral has not yet expired;
- 15          (13) The offense charged is:
- 16                    (A) Escape in the first degree;
- 17                    (B) Escape in the second degree;
- 18                    (C) Promoting prison contraband in the first degree;
- 19                    (D) Promoting prison contraband in the second degree;
- 20                    (E) Bail jumping in the first degree;
- 21                    (F) Bail jumping in the second degree;



- 1 (G) Bribery;
- 2 (H) Bribery of or by a witness;
- 3 (I) Intimidating a witness;
- 4 (J) Bribery of or by a juror;
- 5 (K) Intimidating a juror;
- 6 (L) Jury tampering;
- 7 (M) Promoting prostitution;
- 8 (N) Abuse of family or household member except as
- 9 provided in paragraph (2) and section
- 10 709-906(18);
- 11 (O) Sexual assault in the second degree;
- 12 (P) Sexual assault in the third degree;
- 13 (Q) A violation of an order issued pursuant to
- 14 chapter 586;
- 15 (R) Promoting child abuse in the second degree;
- 16 (S) Promoting child abuse in the third degree;
- 17 (T) Electronic enticement of a child in the first
- 18 degree;
- 19 (U) Electronic enticement of a child in the second
- 20 degree;
- 21 (V) Prostitution pursuant to section 712-1200(1)(b);



- 1 (W) Street solicitation of prostitution under section
- 2 712-1207(1)(b);
- 3 (X) Solicitation of prostitution near schools or
- 4 public parks under section 712-1209;
- 5 (Y) Habitual solicitation of prostitution under
- 6 section 712-1209.5; [~~or~~]
- 7 (Z) Solicitation of a minor for prostitution under
- 8 section 712-1209.1; or
- 9 (AA) Habitually operating a vehicle under the
- 10 influence of an intoxicant under section
- 11 291E-61.5(a);
- 12 (14) The defendant has been charged with:
- 13 (A) Knowingly or intentionally falsifying any report
- 14 required under chapter 11, part XIII with the
- 15 intent to circumvent the law or deceive the
- 16 campaign spending commission; or
- 17 (B) Violating section 11-352 or 11-353; or
- 18 (15) The defendant holds a commercial driver's license and
- 19 has been charged with violating a traffic control law,
- 20 other than a parking law, in connection with the
- 21 operation of any type of motor vehicle."



# S.B. NO. 412

1 SECTION 2. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

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

6 SECTION 4. This Act shall take effect upon its approval.

7

INTRODUCED BY: *M. D. G.*  
By Request



# S.B. NO. 412

**Report Title:**

Honolulu Prosecuting Attorney Package; Habitual OVUII; Penalties

**Description:**

Excludes habitually operating a vehicle under the influence of an intoxicant from qualifying for deferred acceptance of guilty plea or nolo contendere plea.

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

