
A BILL FOR AN ACT

RELATING TO THE DRUG AND ALCOHOL TOXICOLOGY TESTING LABORATORY.

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

1 SECTION 1. Act 196, Session Laws of Hawaii 2021,
2 established the state drug and alcohol toxicology testing
3 laboratory special fund to support a state drug and alcohol
4 toxicology testing laboratory; specified the moneys in the state
5 highway fund may be expended for the cost of establishing a
6 state drug and alcohol toxicology testing laboratory; required
7 that fines imposed on offenders convicted of certain offenses
8 involving operating a vehicle under the influence of an
9 intoxicant be deposited into the state drug and alcohol
10 toxicology testing laboratory special fund; and required the
11 department of health to submit reports to the legislature on
12 expenditures from the state drug and alcohol toxicology testing
13 laboratory special fund.

14 Act 119, Session Laws of Hawaii 2022, appropriated moneys
15 from the state highway fund to the state drug and alcohol
16 toxicology testing laboratory special fund for fiscal year 2022-
17 2023; and authorized the department of health to expend funds



1 from the state drug and alcohol toxicology testing laboratory
2 special fund for the establishment of the state drug and alcohol
3 toxicology testing laboratory.

4 Act 120, Session Laws of Hawaii 2022, appropriated moneys
5 from the state highway fund to the state drug and alcohol
6 toxicology testing laboratory special fund for fiscal year 2021-
7 2022; and authorized the department of health to expend these
8 funds from the state drug and alcohol toxicology testing
9 laboratory special fund for the establishment of the state drug
10 and alcohol toxicology testing laboratory.

11 However, there is an immediate and urgent need for blood
12 alcohol testing and the department of health cannot fulfill
13 these services at this time. The city and county of Honolulu
14 emergency services department currently can conduct blood
15 alcohol testing for all counties and will be able to conduct
16 drug testing for impaired driving cases in the future if
17 provided the funding.

18 The purpose of this Act is to:

- 19 (1) Allow moneys in the state highway fund to be expended
20 for the cost of maintaining a drug and alcohol
21 toxicology testing laboratory;



- 1 (2) Require moneys in the drug and alcohol toxicology
2 testing laboratory special fund to be administered and
3 expended by the department of transportation or
4 appropriated as a grant-in-aid to the emergency
5 services department of a county with a population of
6 five hundred thousand or more to support a drug and
7 alcohol toxicology testing laboratory;
- 8 (3) Change the name of the state drug and alcohol
9 toxicology testing laboratory, and its special fund,
10 to repeal reference to the "state" to reflect its
11 expanded scope;
- 12 (4) Appropriate funds from the state highway fund to the
13 drug and alcohol toxicology testing laboratory special
14 fund;
- 15 (5) Appropriate funds out of the drug and alcohol
16 toxicology testing laboratory special fund for the
17 establishment and maintenance of a drug and alcohol
18 toxicology testing laboratory; and
- 19 (6) Require reports to the legislature on expenditures
20 made from the drug and alcohol toxicology testing
21 laboratory special fund.



1 SECTION 2. Section 248-9, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

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

5 (1) To pay the costs of operation, maintenance, and repair
6 of the state highway system, including without
7 limitation, the cost of equipment and general
8 administrative overhead;

9 (2) To pay the costs of acquisition, including real
10 property and interests therein; planning; designing;
11 construction; and reconstruction of the state highway
12 system and bikeways, including without limitation, the
13 cost of equipment and general administrative overhead;

14 (3) To reimburse the general fund for interest on and
15 principal of general obligation bonds issued to
16 finance highway projects where the bonds are
17 designated to be reimbursable out of the state highway
18 fund;

19 (4) To pay the costs of construction, maintenance, and
20 repair of county roads; provided that none of the
21 funds expended on a county road or program shall be



1 federal funds when expenditure would cause a violation
 2 of federal law or a federal grant agreement; and
 3 (5) To pay the cost of establishing and maintaining a
 4 [~~state~~] drug and alcohol toxicology testing laboratory
 5 that is intended to support the prosecution of
 6 offenses relating to operation of a motor vehicle
 7 while under the influence of an intoxicant."

8 SECTION 3. Section 291E-8, Hawaii Revised Statutes, is
 9 amended to read as follows:

10 "~~[+]§291E-8[+]~~ [~~State drug~~] Drug and alcohol toxicology
 11 testing laboratory special fund; established. (a) There is
 12 established in the state treasury a [~~state~~] drug and alcohol
 13 toxicology testing laboratory special fund, into which shall be
 14 deposited:

- 15 (1) All fines collected pursuant to sections
 16 ~~[+]291E-61(b)(2)(E)[+]~~, 291E-61.5(c)(2)(C), and
 17 291E-62(c);
- 18 (2) Moneys appropriated by the legislature to the fund;
- 19 (3) Other grants and gifts made to the fund; and
- 20 (4) Any income and interest earned on the balance of the
 21 fund.



1 (b) Moneys in the [~~state~~] drug and alcohol toxicology
2 testing laboratory special fund shall be administered and
3 expended by the department of [~~health~~] transportation or
4 appropriated as a grant-in-aid to the emergency services
5 department of a county with a population of five hundred
6 thousand or more to support a [~~state~~] drug and alcohol
7 toxicology testing laboratory."

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

10 "(b) A person committing the offense of operating a
11 vehicle under the influence of an intoxicant shall be sentenced
12 without possibility of probation or suspension of sentence as
13 follows:

14 (1) Except as provided in paragraph (4), for the first
15 offense, or any offense not preceded within a ten-year
16 period by a conviction for an offense under this
17 section or section 291E-4(a):

18 (A) A fourteen-hour minimum substance abuse
19 rehabilitation program, including education and
20 counseling, or other comparable programs deemed
21 appropriate by the court;



- 1 (B) Revocation of license to operate a vehicle for no
- 2 less than one year and no more than eighteen
- 3 months;
- 4 (C) Installation during the revocation period of an
- 5 ignition interlock device on all vehicles
- 6 operated by the person;
- 7 (D) Any one or more of the following:
- 8 (i) Seventy-two hours of community service work;
- 9 (ii) No less than forty-eight hours and no more
- 10 than five days of imprisonment; or
- 11 (iii) A fine of no less than \$250 and no more than
- 12 \$1,000;
- 13 (E) A surcharge of \$25 to be deposited into the
- 14 neurotrauma special fund; and
- 15 (F) A surcharge, if the court so orders, or up to \$25
- 16 to be deposited into the trauma system special
- 17 fund;
- 18 (2) For an offense that occurs within ten years of a prior
- 19 conviction for an offense under this section:
- 20 (A) A substance abuse program of at least thirty-six
- 21 hours, including education and counseling, or



- 1 other comparable programs deemed appropriate by
- 2 the court;
- 3 (B) Revocation of license to operate a vehicle for no
- 4 less than two years and no more than three years;
- 5 (C) Installation during the revocation period of an
- 6 ignition interlock device on all vehicles
- 7 operated by the person;
- 8 (D) Either one of the following:
 - 9 (i) No less than two hundred forty hours of
 - 10 community service work; or
 - 11 (ii) No less than five days and no more than
 - 12 thirty days of imprisonment, of which at
 - 13 least forty-eight hours shall be served
 - 14 consecutively;
- 15 (E) A fine of no less than \$1,000 and no more than
- 16 \$3,000, to be deposited into the [~~state~~] drug and
- 17 alcohol toxicology testing laboratory special
- 18 fund;
- 19 (F) A surcharge of \$25 to be deposited into the
- 20 neurotrauma special fund; and



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

4 (3) In addition to a sentence imposed under paragraphs (1)
5 and (2), any person eighteen years of age or older who
6 is convicted under this section and who operated a
7 vehicle with a passenger, in or on the vehicle, who
8 was younger than fifteen years of age, shall be
9 sentenced to an additional mandatory fine of \$500 and
10 an additional mandatory term of imprisonment of
11 forty-eight hours; provided that the total term of
12 imprisonment for a person convicted under this
13 paragraph shall not exceed the maximum term of
14 imprisonment provided in paragraph (1) or (2), as
15 applicable. Notwithstanding paragraphs (1) and (2),
16 the revocation period for a person sentenced under
17 this paragraph shall be no less than two years;

18 (4) In addition to a sentence imposed under paragraph (1),
19 for a first offense under this section, or an offense
20 not preceded within a ten-year period by a conviction
21 for an offense, any person who is convicted under this



1 section and was a highly intoxicated driver at the
2 time of the subject incident shall be sentenced to an
3 additional mandatory term of imprisonment for forty-
4 eight consecutive hours and an additional mandatory
5 revocation period of six months; provided that the
6 total term of imprisonment for a person convicted
7 under this paragraph shall not exceed the maximum term
8 of imprisonment provided in paragraph (1).

9 Notwithstanding paragraph (1), the revocation period
10 for a person sentenced under this paragraph shall be
11 no less than eighteen months;

12 (5) In addition to a sentence under paragraph (2), for an
13 offense that occurs within ten years of a prior
14 conviction for an offense under this section, any
15 person who is convicted under this section and was a
16 highly intoxicated driver at the time of the subject
17 incident shall be sentenced to an additional mandatory
18 term of imprisonment of ten consecutive days and an
19 additional mandatory revocation period of one year;
20 provided that the total term of imprisonment for a
21 person convicted under this paragraph shall not exceed



1 the maximum term of imprisonment provided in paragraph
2 (2), as applicable. Notwithstanding paragraph (2),
3 the revocation period for a person sentenced under
4 this paragraph shall be no less than three years;

5 (6) A person sentenced pursuant to paragraph (1)(B) may
6 file a motion for early termination of the applicable
7 revocation period if the person:

8 (A) Was not sentenced to any additional mandatory
9 revocation period pursuant to paragraph (3) or
10 (4);

11 (B) Actually installed and maintained an ignition
12 interlock device on all vehicles operated by the
13 person for a continuous period of six months,
14 after which the person maintained the ignition
15 interlock device on all vehicles operated by the
16 person for a continuous period of three months
17 without violation;

18 (C) Includes with their motion for early termination
19 a certified court abstract establishing that they
20 were not sentenced to any additional mandatory



1 revocation period pursuant to paragraph (3) or
2 (4);

3 (D) Includes with [~~their~~] the person's motion for
4 early termination a certified statement from the
5 director of transportation establishing that:

6 (i) The person installed and maintained an
7 ignition interlock device on all vehicles
8 operated by the person for a continuous
9 period of six months; and

10 (ii) After the six-month period, the person
11 maintained the ignition interlock device on
12 all vehicles operated by the person for a
13 continuous period of three months without
14 violation; and

15 (E) Has complied with all other sentencing
16 requirements.

17 Nothing in this paragraph shall require a court to
18 grant early termination of the revocation period if
19 the court finds that continued use of the ignition
20 interlock device will further the person's
21 rehabilitation or compliance with this section;



- 1 (7) 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 prohibited from driving during the
9 period of applicable revocation provided in paragraphs
10 (1) to (5); provided that the person shall be
11 sentenced to the maximum license revocation period,
12 the court shall not issue an ignition interlock permit
13 pursuant to subsection (i), and the person shall be
14 subject to the penalties provided by section 291E-62
15 if the person drives during the applicable revocation
16 period; and
- 17 (8) For purposes of this subsection, "violation" means:
- 18 (A) Providing a sample of .04 or more grams of
19 alcohol per two hundred ten liters of breath when
20 starting the vehicle, unless a subsequent test
21 performed within ten minutes registers a breath



1 alcohol concentration lower than .02 and the
2 digital image confirmed the same person provided
3 both samples;

4 (B) Providing a sample of .04 or more grams of
5 alcohol per two hundred ten liters of breath on a
6 rolling retest, unless a subsequent test
7 performed within ten minutes registers a breath
8 alcohol concentration lower than .02 and the
9 digital image confirms the same person provided
10 both samples;

11 (C) Failing to provide a rolling retest, unless an
12 acceptable test is performed within ten minutes;

13 (D) Violating section 291E-66; or

14 (E) Failing to provide a clear photo of the person
15 when the person blows into the ignition interlock
16 device."

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

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



- 1 (1) An indeterminate term of imprisonment of five years;
2 or
3 (2) A term of probation of five years, with conditions to
4 include:
5 (A) Mandatory revocation of license to operate a
6 vehicle for a period no less than three years but
7 no more than five years, with mandatory
8 installation of an ignition interlock device in
9 all vehicles operated by the respondent during
10 the revocation period;
11 (B) No less than ten days imprisonment, of which at
12 least forty-eight hours shall be served
13 consecutively;
14 (C) A fine of no less than \$2,000 but no more than
15 \$5,000, to be deposited into the [state] drug and
16 alcohol toxicology testing laboratory special
17 fund;
18 (D) Referral to a certified substance abuse counselor
19 as provided in subsection (e);
20 (E) A surcharge of \$25 to be deposited into the
21 neurotrauma special fund; and



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

4 In addition to the foregoing, any vehicle owned and operated by
5 the person committing the offense shall be subject to forfeiture
6 pursuant to chapter 712A."

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

9 "(c) Any person convicted of violating this section shall
10 be sentenced as follows without possibility of probation or
11 suspension of sentence:

12 (1) For a first offense, or any offense not preceded
13 within a ten-year period by conviction for an offense
14 under this section, section 291E-66, or section
15 291-4.5 as that section was in effect on December 31,
16 2001:

17 (A) A term of imprisonment of no less than three
18 consecutive days and no more than thirty days;

19 (B) A fine of no less than \$250 and no more than
20 \$1,000, to be deposited into the [~~state~~] drug and



1 alcohol toxicology testing laboratory special
2 fund; and

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

5 (2) For an offense that occurs within ten years of a prior
6 conviction for an offense under this section, section
7 291E-66, or section 291-4.5 as that section was in
8 effect on December 1, 2001:

9 (A) Thirty days imprisonment;

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

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

15 (3) For an offense that occurs within ten years of two or
16 more prior convictions for offenses under this
17 section, section 291E-66, or section 291-4.5 as that
18 section was in effect on December 31, 2001, or any
19 combination thereof:

20 (A) No less than six months and no more than one year
21 imprisonment;



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

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

6 (4) In addition to a sentence imposed under paragraphs (1)
7 through (3), any person who is convicted under this
8 section and also convicted under section 291E-61 or
9 291E-61.5, for an offense based on the same incident
10 or arising from the same episode, shall be sentenced
11 to terms of imprisonment for both offenses, which
12 shall be served consecutively."

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

15 "(2) All fines and other final payments received by a
16 clerk or other officer of a court shall be accounted for, with
17 the names of persons making payment, and the amount and date
18 thereof, being recorded. All such funds shall be deposited with
19 the director of finance to the credit of the general fund of the
20 State. With respect to fines and bail forfeitures that are
21 proceeds of the wildlife revolving fund under section 183D-10.5;



1 fines that are proceeds of the [~~state~~] drug and alcohol
2 toxicology testing laboratory special fund under sections
3 [~~291E-61(b)(2)(C),~~] 291E-61(b)(2)(E), 291E-61.5(c)(2)(C), and
4 291E-62(c); and fines that are proceeds of the compliance
5 resolution fund under sections 26-9(o) and 431:2-410, the
6 director of finance shall transmit the fines and forfeitures to
7 the respective funds."

8 SECTION 8. Act 196, Session Laws of Hawaii 2021, is
9 amended as follows:

10 1. By amending section 9 to read:

11 "SECTION 9. The [~~state~~] drug and alcohol toxicology
12 testing laboratory special fund established in section
13 [~~291E-8,~~] 291E-8, Hawaii Revised Statutes, shall be abolished
14 and repealed on June 30, [~~2026,~~] 2028, and any unencumbered
15 remaining balances shall lapse to the [~~general fund.~~] credit of
16 the state highway fund."

17 2. By amending section 11 to read:

18 "SECTION 11. This Act shall take effect on July 1, 2021;
19 provided that on June 30, [~~2026,~~] 2028, sections 4, 5, 6, and 7
20 of this Act shall be repealed and [~~section~~] sections 291E-61,
21 291E-61.5, 291E-62, and 706-643, Hawaii Revised Statutes, shall



1 be reenacted in the form in which it read on the day before the
2 effective date of this Act."

3 SECTION 9. Act 216, Session Laws of Hawaii 2021, as
4 amended by Act 94, Session Laws of Hawaii 2022, is amended by
5 amending section 10 to read as follows:

6 "SECTION 10. This Act shall take effect on July 1, 2021;
7 provided that the amendments made to sections 291E-61 and
8 291E-61.5, Hawaii Revised Statutes, by sections 5 and 6,
9 respectively, of this Act shall not be repealed when those
10 sections are reenacted on June 30, [~~2026~~] 2028, pursuant to
11 section 11 of Act 196, Session Laws of Hawaii 2021[~~-~~], as
12 amended by section 8 of Act _____, Session Laws of Hawaii 2023."

13 SECTION 10. Act 94, Session Laws of Hawaii 2022, is
14 amended by amending section 7 to read as follows:

15 "SECTION 7. This Act shall take effect on January 1, 2023;
16 provided that the amendments made to sections 291E-61 and 291E-
17 62, Hawaii Revised Statutes, by sections 1 and 2, respectively,
18 of this Act shall not be repealed when those sections are
19 reenacted on June 30, [~~2026~~] 2028, pursuant to section 11 of
20 Act 196, Session Laws of Hawaii 2021[~~-~~], as amended by section 8
21 of Act _____, Session Laws of Hawaii 2023."



1 SECTION 11. There is appropriated out of the state highway
2 fund the sum of \$ or so much thereof as may be
3 necessary for fiscal year 2023-2024 and \$ or so much
4 as necessary for fiscal year 2024-2025 for deposit into the drug
5 and alcohol toxicology testing laboratory special fund
6 established by section 291E-8, Hawaii Revised Statutes.

7 SECTION 12. There is appropriated out of the drug and
8 alcohol toxicology testing laboratory special fund the sum of
9 \$ or so much thereof as may be necessary for fiscal
10 year 2023-2024 and \$ or so much as necessary for
11 fiscal year 2024-2025 for the establishment and maintenance of a
12 drug and alcohol toxicology testing laboratory, including the
13 costs of laboratory instrumentation, facility renovation and
14 security upgrades, office furniture and supplies, laboratory
15 equipment, and other purposes that support a drug and alcohol
16 toxicology testing laboratory.

17 The sums appropriated shall be expended by the department
18 of transportation or appropriated as a grant-in-aid to the city
19 and county of Honolulu emergency services department for the
20 purposes of this Act.



1 SECTION 13. Any provision of this Act to the contrary
2 notwithstanding, the appropriation for fiscal year 2023-2024
3 authorized under section 12 of this Act shall not lapse at the
4 end of the fiscal year for which the appropriation is made;
5 provided that all moneys from the appropriation that are
6 unencumbered as of June 30, 2025, shall lapse to the credit of
7 the state highway fund as of that date.

8 SECTION 14. No later than thirty days prior to the
9 convening of the regular sessions of 2025 and 2026, the
10 department of transportation or city and county of Honolulu
11 emergency services department shall submit a report to the
12 legislature on the expenditures made from the drug and alcohol
13 toxicology testing laboratory special fund, including the
14 amounts expended and the purpose of each expenditure as it
15 relates to supporting the drug and alcohol toxicology testing
16 laboratory.

17 SECTION 15. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 16. This Act shall take effect on June 30, 3000.



Report Title:

Drug and Alcohol Toxicology Testing Laboratory; Special Fund;
Appropriations

Description:

Authorizes moneys in the state highway fund to be expended to maintain the drug and alcohol toxicology testing laboratory. Authorizes moneys in the drug and alcohol toxicology testing laboratory special fund to be administered and expended by the Department of Transportation or appropriated as a grant-in-aid to a qualifying county emergency services department to support the laboratory. Appropriates funds for the laboratory. Requires reports to the Legislature. Effective 6/30/3000.
(SD1)

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

