



State:

Hawaii

Statute/Law:

§291E-61 *Operating a vehicle under the influence of an intoxicant.*

Per Se Law?:

No

Statute/Law Language:

(a) A person commits the offense of operating a vehicle under the influence of an intoxicant if the person operates or assumes actual physical control of a vehicle:

(1) While under the influence of alcohol in an amount sufficient to impair the person's normal mental faculties or ability to care for the person and guard against casualty;

(2) While under the influence of any drug that impairs the person's ability to operate the vehicle in a careful and prudent manner;

(3) With .08 or more grams of alcohol per two hundred ten liters of breath; or

(4) With .08 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood."

Penalties Following Conviction:

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

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

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

(C) Any one or more of the following:

(i) Seventy-two hours of community service work;

(ii) Not less than forty-eight hours and not more than five days of imprisonment; or



- (iii) A fine of not less than \$150 but not more than \$1,000;
 - (D) A surcharge of \$25 to be deposited into the neurotrauma special fund; and
 - (E) A surcharge, if the court so orders, of up to \$25 to be deposited into the trauma system special fund;
- (2) For an offense that occurs within five years of a prior conviction for an offense under this section or section 291E-4(a):
- (A) Revocation for not less than eighteen months nor more than two years of license and privilege to operate a vehicle during the revocation period and installation during the revocation period of an ignition interlock device on any vehicle operated by the person;
 - (B) Either one of the following:
 - (i) Not less than two hundred forty hours of community service work; or
 - (ii) Not less than five days but not more than thirty days of imprisonment, of which at least forty-eight hours shall be served consecutively;
 - (C) A fine of not less than \$500 but not more than \$1,500;
 - (D) A surcharge of \$25 to be deposited into the neurotrauma special fund; and
 - (E) A surcharge of up to \$50 if the court so orders, to be deposited into the trauma system special fund;
- (3) For an offense that occurs within five years of two prior convictions for offenses under this section or section 291E-4(a):
- (A) A fine of not less than \$500 but not more than \$2,500;
 - (B) Revocation for two years of license and privilege to operate a vehicle during the revocation period and installation during the revocation period of an ignition interlock device on any vehicle operated by the person;
 - (C) Not less than ten days but not more than thirty days imprisonment, of which at least forty-eight hours shall be served consecutively;



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

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

Discretionary Court-Ordered Penalties:

The court may order the following community service in lieu of or in addition to jail time and fines: 72 hours for 1st offense; 240 hours for 2nd offense within 5 years. Restitution to the victim, home detention, special assessment of \$100, curfew using monitoring, or supervised release may also be ordered. \$25 surcharges to Neurotrauma fund may be assessed. Vehicle forfeiture may be ordered on 3rd offense. A surcharge of up to \$50 if the court so orders, to be deposited into the trauma system special fund.

For more information:

http://www.capitol.hawaii.gov/hrscurrent/vol05_Ch0261-0319/HRS0291E/HRS_0291E-0061.HTM

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