

JAN 22 2007

S.B. NO. 1340

---

# A BILL FOR AN ACT

RELATING TO CHAPTER 291E, HAWAII REVISED STATUTES.

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

1           SECTION 1. Chapter 291E, Hawaii Revised Statutes, is  
2 amended by adding two new sections to be appropriately  
3 designated and to read as follows:

4           "§291E-        Illegal operation of a vehicle while under  
5 court order of revocation of privilege to operate a  
6 vehicle. (a) A person commits the offense of illegal  
7 operation of a vehicle while under court order of  
8 revocation of privilege to operate a vehicle if the person  
9 operates or assumes actual physical control of a vehicle  
10 after the person has had the person's privilege to operate  
11 a vehicle revoked by a court order pursuant to this  
12 chapter, or revoked by a court order pursuant to section  
13 200-81, 291-4, 291-4.4, 291-4.5, or 291-7 as those  
14 provisions were in effect on December 31, 2001.

15           (b) It is an affirmative defense that the person had  
16 had the person's privilege to operate a vehicle restored by  
17 court order prior to the date of the alleged offense.

1        (c) Illegal operation of a vehicle while under court  
2 order of revocation of privilege to operate a vehicle is a  
3 class C felony.

4        (d) If the person convicted of violating this section  
5 is a habitual operator of a vehicle while under the  
6 influence of an intoxicant, as defined by section 291E-  
7 61.5, the person shall be sentenced to permanent revocation  
8 of privilege to operate a vehicle and to an indeterminate  
9 term of imprisonment of five years, without possibility of  
10 suspension of sentence or probation.

11       (e) If the person convicted of violating this section  
12 is not an habitual operator of a vehicle while under the  
13 influence of an intoxicant, as defined by section 291E-  
14 61.5, the person shall be sentenced to a five-year  
15 revocation of privilege to operate a vehicle, to commence  
16 upon the release of the person from the period of  
17 imprisonment imposed pursuant to this section, and to:

18       (1) An indeterminate term of imprisonment of five  
19       years; or

20       (2) A five-year term of probation, with terms and  
21       conditions to include, but not be limited to,  
22       ninety days of imprisonment, which shall not be  
23       suspended.

1        §291E-    Illegal operation of a vehicle while under  
2 court order of suspension of privilege to operate a  
3 vehicle.    (a) A person commits the offense of illegal  
4 operation of a vehicle while under court order of  
5 suspension of privilege to operate a vehicle if the person  
6 operates or assumes actual physical control of a vehicle  
7 during a period of time for which the person has had the  
8 person's privilege to operate a vehicle suspended by a  
9 court order pursuant to this chapter, or suspended by a  
10 court order pursuant to section 200-81, 291-4, 291-4.4,  
11 291-4.5, or 291-7 as those provisions were in effect on  
12 December 31, 2001.

13        (b) Any person convicted of violating this section  
14 shall be sentenced as follows:

15        (1) For a first offense, or any offense not preceded  
16 within a five-year period by conviction for an  
17 offense under this section:

18        (A) A term of imprisonment of not less than  
19 three consecutive days but not more than  
20 thirty days, which shall not be suspended;

21        (B) A fine of not less than \$250 but not more  
22 than \$1,000; and

1           (C) Revocation of license and privilege to  
2           operate a vehicle for an additional year;  
3       (2) For an offense that occurs within five years of a  
4       prior conviction for an offense under this  
5       section:  
6       (A) Thirty consecutive days imprisonment, which  
7       shall not be suspended;  
8       (B) A \$1,000 fine; and  
9       (C) Revocation of license and privilege to  
10       operate a vehicle for an additional two  
11       years; and  
12       (3) For an offense that occurs within five years of  
13       two or more prior convictions for offenses under  
14       this section:  
15       (A) One year imprisonment, which shall not be  
16       suspended;  
17       (B) A \$2,000 fine; and  
18       (C) Permanent revocation of the person's license  
19       and privilege to operate a vehicle.  
20       The period of revocation shall commence upon the release of  
21       the person from the period of imprisonment imposed pursuant  
22       to this section."

1 SECTION 2. Section 291E-62, Hawaii Revised Statutes,  
2 is amended by amending the title and subsection (a) to read  
3 as follows:

4 "§291E-62 Operating a vehicle after license and  
5 privilege have been administratively suspended or revoked  
6 for operating a vehicle under the influence of an  
7 intoxicant; penalties. (a) No person whose license and  
8 privilege to operate a vehicle have been revoked,  
9 suspended, or otherwise restricted pursuant to this section  
10 or to part III [~~or section 291E-61 or 291E-61.5,~~] of this  
11 chapter, or to part VII or part XIV of chapter 286 [~~or~~  
12 ~~section 200-81, 291-4, 291-4.4, 291-4.5, or 291-7]~~ as those  
13 provisions were in effect on December 31, 2001, shall  
14 operate or assume actual physical control of any vehicle:

- 15 (1) In violation of any restrictions placed on the  
16 person's license; or  
17 (2) While the person's license or privilege to  
18 operate a vehicle remains suspended or revoked."

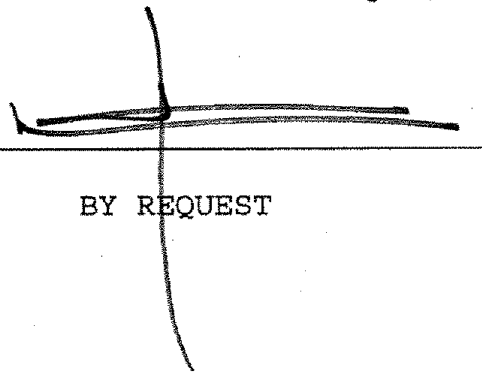
19 SECTION 3. Statutory material to be repealed is  
20 bracketed and stricken. New statutory material is  
21 underscored.

22

S .B. NO. 1340

1 SECTION 4. This Act shall take effect on January 1,  
2 2008.

3 INTRODUCED BY: \_\_\_\_\_



4 BY REQUEST

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO CHAPTER 291E,  
HAWAII REVISED STATUTES.

PURPOSE: To create a felony charge for those who  
drive after a court revoked their license  
for DUI convictions and a new criminal  
offense for those who drive after a court  
suspended their license for DUI convictions.

MEANS: Add two new sections to chapter 291E and  
amend section 291E-62, Hawaii Revised  
Statutes.

JUSTIFICATION: People who continue to drive despite having  
had their licenses revoked or suspended due  
to DUI convictions are a danger to everyone  
else driving or walking on a roadway. Our  
citizens need to be protected from these  
individuals who act without regard to the  
law, court orders, or the well-being of  
others. This bill makes it a felony offense  
for a person to continue to drive in  
violation of a court order revoking or  
suspending his license.

Impact on the public: Members of the public  
will be safer when driving because DUI  
recidivism should decrease due to the  
enhanced penalties contained in this bill.

Impact on the department and other agencies:  
Police departments will have additional  
charges to bring when those who have had  
their driver's licenses revoked or suspended  
continue to drive.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM

DESIGNATION: None.

OTHER AFFECTED AGENCIES: Judiciary, county police, county prosecutors, and the Office of the Public Defender.

EFFECTIVE DATE: January 1, 2008.