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# A BILL FOR AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE OF ALCOHOL.

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

1           SECTION 1. The legislature finds that there is a need to  
2 reduce the incidence of drivers on highways and roads of this  
3 State who, because of their use, consumption, or possession of  
4 intoxicating liquor, pose a danger to the health and safety of  
5 the people of Hawaii.

6           One method of dealing with the problem of drinking drivers  
7 is to discourage the use of motor vehicles by persons who have  
8 consumed alcoholic beverages. The installation of an ignition  
9 interlock system that measures breath alcohol will provide a  
10 means of deterring the use of motor vehicles by these persons.  
11 Ignition interlock systems are designed to supplement other  
12 methods of punishment that prevent drivers who have been  
13 convicted of driving under the influence of an intoxicant from  
14 using a motor vehicle after using, possessing, or consuming  
15 alcohol. It is economically and technically feasible to have an  
16 ignition interlock system installed in a motor vehicle in such a





1 "Director" means the director of transportation.

2 "Examiner of drivers" means the person or persons appointed  
3 under section 286-101.

4 "Ignition interlock system" or "system" means a constant  
5 monitoring system certified by the director which prevents a  
6 motor vehicle from being started at any time without first  
7 determining the equivalent blood alcohol level of the operator  
8 by testing a deep-lung breath sample.

9 § -2 **Proof of compliance; failure to comply.** (a) When  
10 the court sentences an offender to the use of an ignition  
11 interlock system pursuant to section 291E-61, the court shall  
12 require the offender to provide proof of installation to the  
13 director within ten working days.

14 (b) If the offender fails to provide proof of installation  
15 within that period, absent a finding of good cause by the court,  
16 the court shall revoke or terminate the offender's driving  
17 privileges for the remaining period during which the use of the  
18 system was required.

19 (c) In the event that the system cannot be installed due  
20 to the unavailability of the system, the manufacturer or  
21 installer shall report this to the court and the court may



1 extend the time for installation of the system for an additional  
2 thirty days.

3 (d) For the purposes of this section, good cause for  
4 failure to comply shall mean any reason the court deems  
5 sufficiently justifiable to excuse the offender's failure to  
6 comply with its order.

7 (e) The court shall also require an imprint or attachment  
8 of a notation on the driver's license of any person restricted  
9 under this chapter indicating that the person may operate only a  
10 motor vehicle equipped with an ignition interlock system.

11 § -3 **Monitoring.** Any person required to install an  
12 ignition interlock system shall have the system monitored by the  
13 manufacturer of the system for proper use and accuracy at least  
14 quarterly or more frequently, as the court may order. A report  
15 of that monitoring shall be issued by the manufacturer to the  
16 court within fourteen days following each monitoring.

17 § -4 **Costs.** (a) If an ignition interlock system is  
18 ordered installed pursuant to this chapter, the offender shall  
19 pay the reasonable costs of leasing or buying and installing the  
20 system.

21 (b) An offender who is unable to pay for the costs of the  
22 system shall file an affidavit of indigency or inability to pay



1 with the court within ten days of the order, and the court shall  
2 cause an investigation to be made to confirm the indigency or  
3 establishes that the payment of such cost would cause a grave  
4 and serious hardship to the individual or to the family of the  
5 individual. The court may enter a written finding of indigency  
6 that waives the entire amount of the cost, or may direct the  
7 offender to make partial or installment payments of costs when  
8 appropriate.

9 Subject to appropriation, the State shall reimburse the  
10 installer of an ignition interlock system provided to an  
11 offender for whom payment of costs has been waived on the  
12 grounds of indigency.

13 (c) Each person ordered to install an ignition interlock  
14 system shall pay a fee, in addition to any other system fees  
15 authorized, of not more than \$100 to the court. Fees shall be  
16 deposited into the general fund, subject to appropriation for  
17 the costs of providing ignition interlock systems to individuals  
18 deemed indigent.

19 No fee shall be collected from an offender who is  
20 determined to be indigent pursuant to subsection (b), provided  
21 that in lieu of waiver of the entire amount of the fee, the  
22 court may direct the offender to make partial or installment



1 payments of the fee when appropriate. Failure to pay the fees  
2 required under this section, unless excused, shall constitute a  
3 violation of this chapter.

4       **§ -5 Employer-owned vehicles.** (a) If an offender  
5 ordered to install an ignition interlock system is required, in  
6 the course and scope of the person's employment, to operate a  
7 motor vehicle owned by the person's employer, the person may  
8 operate that vehicle without installation of an ignition  
9 interlock system provided that the employer has been notified  
10 that the employee's driving privileges are restricted as  
11 provided in section 291E-61 and the employee has proof of the  
12 notification in the employee's possession while operating the  
13 employer's vehicle.

14       (b) To the extent that an employer-owned vehicle is made  
15 available for personal use to a person subject to this chapter,  
16 no exemption under this section shall apply. A person intending  
17 to operate an employer-owned motor vehicle for personal use and  
18 who is required to operate only a motor vehicle equipped with a  
19 certified ignition interlock system shall bear the burden of  
20 notifying the employer in accordance with this section and  
21 obtaining consent in writing from the employer to install such a  
22 system in the employer-owned vehicle.



1 (c) Upon conviction for violation of any provision of this  
2 section, the court shall notify the examiner of drivers who  
3 shall immediately revoke the person's license to operate a  
4 vehicle for the remainder of the period of suspension or  
5 revocation during which the ignition interlock system  
6 requirement was imposed.

7 § -6 **Tampering; use of other than personal motor**  
8 **vehicle.** (a) A person shall not circumvent or tamper with the  
9 operation of an ignition interlock system.

10 (b) No person shall knowingly rent, lease, or lend a motor  
11 vehicle to a person known to have had the person's driving  
12 privilege restricted as provided in this chapter, unless the  
13 vehicle is equipped with a functioning, certified ignition  
14 interlock system. An offender whose driving privilege is  
15 restricted shall notify any other person who rents, leases, or  
16 lends a motor vehicle to the restricted person of the driving  
17 restriction imposed under this chapter.

18 § -7 **Circumvention.** (a) No person shall solicit  
19 another to blow into an ignition interlock system to start the  
20 motor vehicle so as to circumvent the system.

21 (b) No person shall unlawfully blow into an ignition  
22 interlock system or start a motor vehicle equipped with an



1 ignition interlock system for the purpose of providing an  
2 operable motor vehicle to another person who is required to have  
3 such a system.

4 (c) This section shall not apply if the starting of a  
5 motor vehicle, or the request to start a motor vehicle, equipped  
6 with an ignition interlock system is done for the purpose of  
7 safety or mechanical repair of the system or the vehicle,  
8 provided that the person subject to the court order does not  
9 operate the vehicle.

10 § -8 **Certification.** (a) The director shall certify or  
11 cause to be certified ignition interlock systems for use in the  
12 State and shall adopt rules under chapter 91 for the  
13 certification of the systems. The standards shall require at  
14 least that the system:

- 15 (1) Shall not impede the safe operation of the vehicle;
- 16 (2) Shall have features that make circumvention difficult  
17 and that do not interfere with the normal use of the  
18 vehicle;
- 19 (3) Shall correlate well with established measures of  
20 alcohol impairment;
- 21 (4) Shall work accurately and reliably in an unsupervised  
22 environment;





1 (5) Shall resist tampering and give evidence if tampering  
2 is attempted;

3 (6) Requires a deep-lung breath sample as a measure of  
4 blood alcohol concentration equivalence; or

5 (7) Is manufactured by a party who will provide liability  
6 insurance.

7 (b) A list of certified systems shall be published by the  
8 director.

9 (c) The cost of the certification program shall be borne  
10 by the manufacturers of ignition interlock systems seeking to  
11 sell or offer for sale or lease those systems in the State.

12 The director may establish, pursuant to chapter 91, fees to  
13 cover the costs incurred in the process of certifying each  
14 ignition interlock system.

15 (d) The director, prior to certification and thereafter as  
16 deemed necessary, shall evaluate ignition interlock systems for  
17 compliance with the requirements of this section. The  
18 manufacturer of any system sought to be certified shall provide  
19 the director with the following:

20 (1) The ignition interlock system;

21 (2) All related accessories;



1 (3) Detailed set of instructions pertaining to the  
2 operation and maintenance of the system; and

3 (4) Any other material needed for the evaluation,  
4 including technical consultation.

5 § -9 **Misuse of system.** No person shall advertise for  
6 sale, offer for sale, or sell or lease an ignition interlock  
7 system in the State unless the system has been certified by the  
8 director and the manufacturer of the system has affixed a  
9 warning label on the system approved by the director, stating  
10 that the tampering, circumventing, or other misuse of the system  
11 may be a misdemeanor subject to a fine or imprisonment or both,  
12 as established in section -10.

13 § -10 **Penalty.** Any person convicted of a violation of  
14 this chapter shall be guilty of a misdemeanor."

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

17 "(b) A person committing the offense of operating a  
18 vehicle under the influence of an intoxicant shall be sentenced  
19 as follows without possibility of probation or suspension of  
20 sentence:



- 1           (1) For the first offense, or any offense not preceded
- 2                   within a five-year period by a conviction for an
- 3                   offense under this section or section 291E-4(a):
- 4                   (A) A fourteen-hour minimum substance abuse
- 5                           rehabilitation program, including education and
- 6                           counseling, or other comparable program deemed
- 7                           appropriate by the court;
- 8                   (B) Ninety-day prompt suspension of license and
- 9                           privilege to operate a vehicle during the
- 10                           suspension period, or the court may impose, in
- 11                           lieu of the ninety-day prompt suspension of
- 12                           license, a minimum thirty-day prompt suspension
- 13                           of license with absolute prohibition from
- 14                           operating a vehicle and, for the remainder of the
- 15                           ninety-day period, a restriction on the license
- 16                           that allows the person to drive for limited
- 17                           work-related purposes and to participate in
- 18                           substance abuse treatment programs;
- 19                   (C) Any one or more of the following:
- 20                           (i) Seventy-two hours of community service work;
- 21                           (ii) Not less than forty-eight hours and not more
- 22                           than five days of imprisonment; [~~or~~]



- 1 (iii) A fine of not less than \$150 but not more
- 2 than \$1,000; [~~and~~] or
- 3 (iv) Connection of an ignition interlock system
- 4 to the offender's vehicle for one year
- 5 pursuant to chapter following the period
- 6 of suspension imposed pursuant to subsection
- 7 (b) (1) (B); and
- 8 (D) A surcharge of \$25 to be deposited into the
- 9 neurotrauma special fund;
- 10 (2) For an offense committed by a highly intoxicated
- 11 driver, prompt suspension of license and privilege to
- 12 operate a vehicle for a period of six months with an
- 13 absolute prohibition from operating a vehicle during
- 14 the suspension period;
- 15 (3) For an offense that occurs within five years of a
- 16 prior conviction for an offense under this section or
- 17 section 291E-4(a) by:
- 18 (A) Prompt suspension of license and privilege to
- 19 operate a vehicle for a period of one year with
- 20 an absolute prohibition from operating a vehicle
- 21 during the suspension period;
- 22 (B) [~~Either~~] Any one or more of the following:



- 1 (i) Not less than two hundred forty hours of
- 2 community service work; [~~or~~]
- 3 (ii) Not less than five days but not more than
- 4 fourteen days of imprisonment of which at
- 5 least forty-eight hours shall be served
- 6 consecutively; or
- 7 (iii) Connection of an ignition interlock system
- 8 to the offender's vehicle for one year
- 9 pursuant to chapter following the
- 10 period of suspension imposed pursuant to
- 11 subsection (b) (3) (A);
- 12 (C) A fine of not less than \$500 but not more than
- 13 \$1,500; and
- 14 (D) A surcharge of \$25 to be deposited into the
- 15 neurotrauma special fund;
- 16 (4) For an offense that occurs within five years of two
- 17 prior convictions for offenses under this section or
- 18 section 291E-4(a) by:
- 19 (A) A fine of not less than \$500 but not more than
- 20 \$2,500;



1 (B) Revocation of license and privilege to operate a  
2 vehicle for a period not less than one year but  
3 not more than five years;

4 (C) Connection of an interlock system to the  
5 offender's vehicle for one year pursuant to  
6 chapter following the period of revocation  
7 imposed pursuant to subsection (b) (3) (B);

8 [~~(C)~~] (D) Not less than ten days but not more than  
9 thirty days imprisonment of which at least  
10 forty-eight hours shall be served consecutively;

11 [~~(D)~~] (E) A surcharge of \$25 to be deposited into the  
12 neurotrauma special fund; and

13 [~~(E)~~] (F) Forfeiture under chapter 712A of the vehicle  
14 owned and operated by the person committing the  
15 offense; provided that the department of  
16 transportation shall provide storage for vehicles  
17 forfeited under this subsection; and

18 (5) Any person eighteen years of age or older who is  
19 convicted under this section and who operated a  
20 vehicle with a passenger, in or on the vehicle, who  
21 was younger than fifteen years of age, shall be  
22 sentenced to an additional mandatory fine of \$500 and



1 an additional mandatory term of imprisonment of  
2 forty-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), [+] (3) [+], or  
6 [+] (4) [+]."

7 SECTION 4. The motor vehicle safety office of the  
8 department of transportation shall monitor the use of ignition  
9 interlock systems and twenty days prior to the convening of each  
10 year's regular session, shall report to the legislature on the  
11 implementation, use, and effectiveness of ignition interlock  
12 systems.

13 SECTION 5. There is appropriated out of the general  
14 revenues of the State of Hawaii the sum of \$ , or so much  
15 thereof as may be necessary for fiscal year 2007-2008, and  
16 \$ , or so much thereof as may be necessary for fiscal year  
17 2008-2009, to carry out the purposes of this Act.

18 The sums appropriated shall be expended by the department  
19 of transportation for the purposes of this Act.

20 SECTION 6. This Act does not affect rights and duties that  
21 matured, penalties that were incurred, and proceedings that were  
22 begun, before its effective date.



1 SECTION 7. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 8. This Act shall take effect on July 1, 2007.

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INTRODUCED BY:         M. Hee          
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**Report Title:**

Driving Under the Influence; Ignition Interlock Systems

**Description:**

Establishes an ignition interlock program that permits court to require use of the system as part of the sentence for driving under the influence of an intoxicant. Requires department of transportation to monitor program. Appropriates funds.

