

STATE: HAWAII  
 Reference: Hawaii Revised Statutes

Basis for a DWI Charge\*:

Standard DWI Offense:	Under the influence of alcohol <sup>315</sup> §291E-61(a)(1)
Illegal Per Se Provision (BAC/BrAC):	≥.08 <sup>316and317</sup> §291E- 61(a)(3) and (4)
Presumption (BAC/BrAC):	<b>None</b>
Types of Drugs/Drugs and Alcohol:	Under the influence of <b>Any Drug</b> <sup>318and319</sup> §291E-61(a)(2)
Other:	<u>Person Under 21 Years Old.</u> ≥.02 but <.08 <sup>320</sup> §291E- 64(a) A BAC/BrAC ≥.08 is “competent evidence” of being under the influence of an intoxicant. §291E-3(a)

Chemical Breath Tests for Alcohol Concentration:

Preliminary Breath Test Provision:	<b>No.</b> <sup>321</sup>
Implied Consent Provision:	
Arrest Required (Yes/No):	<b>Yes</b> §291E-11(b)(1)
Implied Consent Provision Applies to Drugs (Yes/No):	<b>Yes</b> §291E-11(a)
Refusal to Submit to Chemical Test <sup>322</sup>	
Admitted into Evidence:	<b>No</b> (Criminal and Civil Cases) However, there is an exception for administrative hearings related to test refusals. §291E-16
Other Information:	A driver may be compelled to submit to a chemical test if involved in an accident resulting in either death or serious personal injury to another person and there is reason to believe that the driver was under the influence of alcohol or drugs. §291E-21(c); <i>State v. Entrekin</i> , 47 P. 3d 336 (Haw. 2002).

<sup>315</sup> "Alcohol" means the product of distillation or any fermented liquid, regardless of whether rectified, whatever may be the origin thereof, and includes ethyl alcohol, lower aliphatic alcohol and phenol as well as synthetic ethyl alcohol but not denatured or other alcohol that is considered not potable under the customs laws of the United States. §291E-1  
 "Under the influence of alcohol" means an amount of alcohol sufficient to impair the person's normal mental faculties or ability to care for the person and guard against casualty. §291E-1

<sup>316</sup> In addition, the illegal per se provisions make it an offense to operate a motor vehicle with a breath alcohol concentration ≥ .08.

<sup>317</sup> "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath. §291E-1

<sup>318</sup> "Drug" means any controlled substance as defined in schedules I through IV of Chapter 329 or its metabolites. §291E-1

<sup>319</sup> Under the influence of any drug that impairs the person's ability to operate a vehicle in a careful and prudent manner. §§291E-1 and 291E-61(a)(2)

<sup>320</sup> The law prohibits a person <21 years old from driving with any measurable amount of alcohol concentration. This is defined as an alcohol concentration equal to or greater than .02 but less than .08. §§291E-1 and 291E-64(a)

<sup>321</sup> Even though the law does not specifically authorize the use of PBTs, it does limit PBT test results to "determining probable cause for the arrest" and provides a test is not a substitute for usual chemical tests under the implied consent law. §§291 e-1 and 291 e-11(f).

<sup>322</sup> Police required to inform person arrested for DUI of the sanctions for refusal to submit to breath, blood or urine tests only if person withdraws consent to testing implied by operation of a vehicle on public highways or waters of the state.

\*Except for offenses under §291E-64 concerning persons <21 years old, the offenses listed are collectively referred to as “operating a vehicle under the influence of an intoxicant.” An “intoxicant” means alcohol or any drug as defined above. §§291E-1 and 291E-81(a)

Chemical Tests of Other Substances for Alcohol Concentration Which Are Authorized Under the Implied Consent Provision:

Blood:	<b>Yes</b> §291E-11(a)
Urine:	<b>Yes</b> §291E-11(a)
Other:	<b>None</b>

Adjudication of DWI Charges:

Mandatory Adjudication Provision (Yes/No):	<b>No</b>
Anti-Plea-Bargaining Provision (Yes/No):	<b>No</b>
Pre-Sentencing Investigation Provision (PSI) (Yes/No):	<b>Yes.</b> Substance abuse assessment is required. §§291E-61(d) and 291E-62(d)

Sanctions for Refusal to Submit to a BAC

Chemical Test:

Refusal to Take a <u>Preliminary Breath Test:</u>	
Criminal Sanctions (Fine/Jail):	<b>N/A</b>
Administrative Licensing Action (Suspension/Revocation):	

Refusal to Take Implied Consent

Chemical Test:

Criminal Sanction (Fine/Jail):	<b>None</b>
Administrative Licensing Action (Suspension/Revocation):	

First alcohol enforcement contact.<sup>323</sup> **Revocation- 1 year** (A restricted conditional license may be issued after 30 days for employment purposes if not “highly intoxicated driver”§291E-44); second alcohol enforcement contact (within 5 years) – **Revocation- 2 years (mand)**; third alcohol enforcement contact (within 7 years) – **Revocation – 4 years**; fourth or subsequent alcohol enforcement contact (within 10 years) – **Revocation for life** §291E-41(b) and (d). Persons under the age of 18 who violate §291E-61 shall be subject to the above revocation periods or until they reach 18, whichever is longer. §291E-41(b)(5).

Sanctions Following a Conviction for a DWI Offense:<sup>324</sup>

<sup>323</sup> "Alcohol Enforcement Contact" means either a refusal, an admin. per se action, ANY offense involving driving with an unlawful alcohol concentration or a drunk driving offense. §291E-1. The term must be explained in order to secure a knowing refusal under §291E-11. *Castro v. Admin Director of the Courts*, 40 P. 3d 865 (Haw. 2002).

<sup>324</sup> **Effective July 1<sup>st</sup>, 2007**, increased penalties for “highly intoxicated drivers” {BAC ≥ .15}. “Highly intoxicated driver” means a person whose measurable amount of alcohol is 0.15 or more grams of alcohol per 100 milliliters or cubic centimeters of the person’s blood, or 0.15 or more grams of alcohol per 210 liters of the person’s breath, as measured at the time of the offense, or within three hours of the time of the offense. For first-time “highly intoxicated drivers”:

(1) The arresting law enforcement officer shall take possession of the motor vehicle registration and, if the motor vehicle being driven by the respondent is registered to the respondent, remove the number plates and issue a temporary motor vehicle registration and temporary number plates for the motor vehicle.

(2) For a highly intoxicated driver a mandatory 6-month revocation of license and of the registration of any motor vehicle registered to the highly intoxicated driver.

Criminal Sanctions:

Imprisonment<sup>325</sup>:

Term (Day, Month, Years,  
Etc.):

First offense – **48 hours to 5 days**; second offense (within 5 years) – **5 to 14 days**; third offense (within 5 years) – **10 to 30 days**; fourth or subsequent offense(within 10 years) (Class C felony) – **Not more than 5 years**<sup>326</sup> §291E-61(b)

Mandatory Minimum Term:

First offense – **48 hours**; second offense (within 5 years) – **5 days**; third offense (within 5 years) – **10 days** (with at least 48 consecutive hours); fourth or subsequent offense(within 10 years) (Class C felony) – **10 days** (with at least 48 consecutive hours) §291E61(b)

Fine:

Amount (\$ Range):

First offense – **\$150 to \$1,000**; second offense (within 5 years) – **\$500 to \$1,500**; third offense (within 5 years) – **\$500 to \$2,500**; fourth or subsequent offense (within 10 years) (Class C felony) – Not more than **\$10,000** §291E-61(b)

Mandatory Min. Fine (\$):

First offense – **\$150**; second offense (within 5 years) – **\$500**; third offense (within 5 years) – **\$500**; fourth or subsequent offense (within 10 years) (Class C felony) – **None** §291E-61(b)

Other Penalties:

Community Service:

First offense – **72 hours**; second offense (within 5 years) – Not less than **240 hours** (as an alternative to imprisonment) §291E-61(b)

Restitution (e.g. Victim's Fund):

Administrative Licensing Actions:

Pre-DWI Conviction Licensing Action\*:

Administrative Per Se Provision:

Yes First alcohol enforcement contact<sup>327</sup> – **Revocation for 3 months to 1 year** (A restricted conditional license may be issued after 30 days for employment purposes. §291E-44); second alcohol

For a violation committed by a highly intoxicated driver that occurs within five years of a prior “alcohol enforcement contact”:

- (1) Prompt mandatory revocation of license for one year.
- (2) In addition, the court may impose any of the following:
  - (a) Not more than 50 hours of community service work; or
  - (b) a fine of not less than \$300 but not more than \$1000.

For a violation committed by a highly intoxicated driver that occurs within five years of two prior “alcohol enforcement contacts”:

- (1) Prompt mandatory revocation of license for two years.
- (2) In addition, the court may impose any of the following: or
  - (a) not more than 100 hours of community service;
  - (b) a fine of not less than \$300 but not more than \$1000.

<sup>325</sup> A person must be sentenced to one of these sanctions but may be sentenced to more than one. §291E-61(b)

<sup>326</sup> See §§701-107(5), 706-640 and 706-660 in the Hawaii Penal Code.

<sup>327</sup> "Alcohol Enforcement Contact" means either a refusal, an admin. per se action, ANY offense involving driving with an unlawful alcohol concentration or a drunk-driving offense. §291E-1

enforcement contact (within 5 years) – **Revocation for 1 year (mand) to 2 years**; third alcohol enforcement contact (within 7 years) – **Revocation for 2 years (mand) to 4 years**; fourth or subsequent alcohol enforcement contact (within 10 years) – **Revocation for life (mand)** §291E-41(b) (The licensing sanction imposed cannot exceed the longer of the one imposed either under the administrative per se law or via a conviction for a drunk-driving offense. §291E-32(b))

**Post DWI Conviction Licensing Action\*:**

Type of Licensing Action

(Suspension/Revocation):

First offense – **Suspension**; second offense (within 5 years) – **Suspension**; third offense (within 5 years) – **Revocation**; fourth or subsequent offense (within 10 years-Class C felony) – **Revocation** §291E-61(b)

Term of License Withdrawal

(Days, Months, Years, etc.):

First offense – **90 days** or **30 days** with restricted driving privileges for the remaining 60 days for employment purposes; second offense (within 5 years) – **1 year**; third offense (within 5 years) – **1 to 5 years**; fourth or subsequent offense (within 10 years-Class C felony) – **1 to 5 years** §291E-61(b)

Mandatory Minimum Term of

Withdrawal:

First offense – **30 days**; second offense (within 5 years) – **1 year**; third offense (within 5 years) – **1 year**; fourth or subsequent offense (within 10 years-Class C felony) – **1 year** §291E-61(b)

Other:

Rehabilitation:

Alcohol Education:

Alcohol Treatment:

See Alcohol Treatment below.

First offense – **14-hour** substance abuse rehabilitation program including education and counseling or other program as deemed appropriate by the court; second or subsequent offenses – **Treatment** if recommended via an assessment §291E-61(b)(1)(A) and (d). All offenders are referred to the driver’s education program for an assessment. §291E-61(d)

Vehicle Impoundment/Confiscation:

Authorized by Specific

Provisions:

**Admin Registration Revocation:**<sup>328</sup> The registration of all of the vehicles owned by a second or subsequent DWI offender must be revoked for the same periods of time as the license of the offender is revoked. Special registrations with special plates may be issued in hardship situations concerning

<sup>328</sup> **Administration Registration Revocation for Refusal:** If a person refuses to submit to a chemical test under the implied consent law, the registrations of all the vehicles that person owns must be revoked for the same period of time as for a refusal licensing action. §291E-41(d) and(e). Special registrations with special plates may be issued in hardship situations concerning co-owners or other household members.

co-owners or other household members. Forfeiture under Chapter 712A of the vehicle for third or subsequent conviction within 5 years, or conviction of habitually operating a vehicle under the influence of an intoxicant {provided the department of transportation provides storage for vehicles} §§291E-33(c), 291E-34(10), 291E-37 (e), 291E-38(1), 291E-41 and 291E-61(b)(3)(E)

Miscellaneous Sanctions  
Not Included Elsewhere:

**Child Endangerment:** Offenders ≥18 years old who were operating a motor vehicle with a passenger <15 years old at the time of the offense are subject to the following additional mandatory sanctions: (1) A mandatory fine of \$500; and, (2) 48 consecutive hours of imprisonment. However, the total imprisonment time imposed for first, second or third offenses cannot exceed the maximum term of imprisonment provided for first, second and subsequent DUI offenses. (1), (2), or (3). §291E-61(b)(4)

**Compensation Fund:** A person who has been convicted of a criminal offense must pay the following fees into the State Criminal Injuries Compensation Fund: felony offense – \$100 – \$500; misdemeanor offense – \$50; petty misdemeanor offense – \$25. §§351-35 and 351-62.6

**Payment of Costs:** Offenders shall make restitution to the county police department or other agency for cost of blood and urine tests..§291E-61(f).

**Surcharge:** All offenders are charged a surcharge of \$35 for deposit into the Neuro-trauma Special Fund. §291E-61(b).

**Bodily Injury Related to Motor Vehicle**

**Operation:** I. Serious bodily injury caused by negligent vehicle operation (negligent injury in the first degree) – Class C felony: Jail – Not more than 5 years (Mandatory jail term of 1 year, 8 months if the

**Persons Under 21 Years Old:** The following sanctions apply to persons <21 years old who operate a motor vehicle with “a measurable amount of alcohol concentration.” first offense – (1) Attendance at an alcohol abuse education/counseling program (the person’s parent or guardian must also attend if the person is <18); (2) 180-day license suspension or 30-day mandatory suspension with a 150-day restricted driving privileges for employment purposes; and (3) one or more the following discretionary sanctions: Not more than 36 hours of community service or a fine of \$150 to \$500. Second offense (within 5 years of a prior alcohol enforcement contact) – (1) 1-year mandatory license suspension; and (2) any of the following discretionary sanctions: Not more than 50 hours of community service or a fine of \$300 to \$1,000. Third offense (within 5 years of 2 prior alcohol enforcement contacts) – (1) 2-year mandatory license suspension; and (2) any of the following discretionary sanctions: Not more than 100 hours of community service, or a fine of \$300 to \$1,000. §291E-64. In addition, all offenders must be assessed by the driver’s education program as to alcohol abuse or dependence and the need for treatment.

victim is blind, paraplegic, quadriplegic, ≥60 years old, or ≤8 years old (**child endangerment**). Fine – Not more than **\$10,000**. II. Substantial bodily injury caused by negligent vehicle operation (negligent injury in the 2nd degree- misdemeanor. Jail – not more than **1 year**; Fine – not more than **\$2,000**. §§706-620, 706-660, 706-660.2, 760-663. 707-705 and 707-706.

**DWI Offenses and Commercial Motor Vehicles(CMV)/Commercial Driver’s Licenses(CDL):** A person is “disqualified” from operating a CMV for not less than 1 mandatory year (3 years if transporting hazardous materials) if, while driving a CMV, that person (1) has an alcohol concentration ≥.04, (2) is under the influence of alcohol, a controlled substance or any drug which impairs driving ability, or (3) refuses to submit to a chemical test for an alcohol concentration. The CMV “disqualification” provision, based on a refusal, applies only to a refusal to submit to a chemical test for alcohol concentration; however, the CMV implied consent provision applies to testing for alcohol or controlled substances. For either a subsequent violation or a combination of two or more violations of any of the above listed items, the “disqualification” is for life (mand). In addition, a CMV operator who has a BAC/BrAC≥.01 must be placed “out-of-service” for 24 hours. §§286-2, 286-231, 286-240, 286-242 and 286-243.

It is a misdemeanor to operate a CMV following CDL disqualification with the following sanctions: Jail- not more than 1 year; Fine – \$550 to \$1000 and disqualification for not less than 1 year and up to life. §§286-235(b), 286-249(a) and 701-107(3). It is a misdemeanor to operate a CMV during a CDL out-of-service order. The sanctions for this offense are a fine of \$1,000 to \$2,500 and disqualification for not less than 1 year and up to life with the following specific disqualification periods. First offense – 90 days (mand) to 1 year; second offense (within 10 years) – 1 year (mand) to 5 years; and third or subsequent offense (within 10 years) – 3 years (mand) to 5 years. However, the following disqualification periods apply if the violation occurred while either transporting hazardous materials or 15 or more persons: first offense – 180 days (mand) to 2 years; second or subsequent offense (within 10 years) – 3 years (mand) to 5 years. §§286-235(b), 286-240(g) and (h), 286-249(b) and 701-107(3).

Other Criminal Actions Related to DWI:

Homicide by Vehicle:

State Has Such a Law:

**Yes**, 3 types of offenses: (1) Death caused by negligent vehicle operation while DWI (negligent homicide in the first degree) – Class B felony; (2) death caused by negligent vehicle operation (negligent homicide in the second degree) – Class C felony; (3) death caused by simple negligence (negligent homicide in the third degree) – misdemeanor §§706-620, 706-640, 706-660, 706-660.2, 706-663. 707-702.5, 707-703 and 707-704

Sanctions:

Criminal Sanction:

Imprisonment (Term):

Death caused by negligent vehicle operation while DWI (negligent homicide in the first degree, a Class B felony- Not more than **10 years**; Death caused by negligent vehicle operation (negligent homicide in the second degree), a Class C. felony – Not more than **5 years**; Death caused by simple negligence (negligent homicide in the third degree), a misdemeanor – not more than **1 year**.

Mandatory Minimum Term:	The following mandatory imprisonment sanctions apply when the person killed is 60 years of age or older, blind, paraplegic, quadriplegic, or 8 years old or younger: Negligent homicide in the first degree-3 years, 4 months; negligent homicide in the 2d degree – 1 year, 8 months. §§706-620 and 706-660.2.
Fine (\$ Range):	Negligent homicide in the first degree, a Class B felony- not more than <b>\$25,000</b> ; negligent homicide in the second degree, a Class C felony- not more than <b>\$20,000</b> ; negligent homicide in the third degree, a misdemeanor- not more than <b>\$2,000</b> .
Mandatory Minimum Fine:	<b>None</b>
Administrative Licensing Action: Licensing Authorized and Type of Action:	There are no specific licensing sanctions associated with these vehicle homicide offenses. However, the law does provide for the following licensing sanctions: (1) A person is subject to a mandatory 1-year license revocation if convicted of manslaughter “resulting from the operation of a motor vehicle.” §§286-124, 286-126 and 707-702. (2) In addition, a person is subject to discretionary license suspension or revocation if convicted of a felony “in the commission of which a motor vehicle is used, or convicted of a violation ...of any traffic law or regulation...involving a vehicle in motion.” If a person’s license is ordered to be suspended, the suspension cannot be for more than 5 years. If the license is ordered to be revoked, the revocation is for a mandatory period of 1 year. §§286-125 and 286-126.
Length of Term of Licensing Withdrawal: Mandatory Action--Minimum Length of License Withdrawal:	
<u>Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:</u> Sanctions: Criminal: Imprisonment (Term):	<u>First offense – 3 consecutive days to 30 days; second offense (within 5 years) – 30 days; subsequent offense (within 5 years) – 1 year</u> §291E-62(a) and (b)
Mandatory Minimum Term of Imprisonment:	<u>First offense – 3 consecutive days; second offense (within 5 years) – 30 days; subsequent offense (within 5 years) – 1 year</u> §291E-62(a) and (b)
Fine (\$ Range):	<u>First offense – \$250 to \$1,000; second offense (within 5 years) – \$1,000; subsequent offense (within 5 years) – \$2,000</u> §291E-62(a) and (b)

Mandatory Minimum Fine:	<u>First offense</u> – <b>\$250</b> ; <u>second offense</u> (within 5 years) – <b>\$1,000</b> ; <u>subsequent offense</u> (within 5 years) – <b>\$2,000</b> §291E-62(a) and (b)
Administrative Licensing Actions: Type of Licensing Action (Suspension/Revocation): Withdrawal Action:	<u>ALL offenses</u> – <b>Revocation</b> §291E-62(a) and (b) <u>First offense</u> – An additional period or <b>1 year</b> ; <u>second offense</u> (within 5 years) – An additional period of <b>2 years</b> ; <u>subsequent offense</u> (within 5 years) – <b>Permanent</b> §291E-62(a) and (b) These revocation periods are to commence after the offender has been released from imprisonment. §291E-62(b)
Mandatory Term of License of Withdrawal Action:	The above revocation periods are mandatory.
<u>Habitual Traffic Offender Provision:</u> State Has Such a Law (Yes/No):	<b>Yes-</b> Habitually operating a vehicle under the influence of an intoxicant. § 291E-61.5
Grounds for Being Declared an Habitual Offender:	Has been convicted three or more times within 10 years <sup>329</sup> of operating a vehicle under the influence of an intoxicant at the time the person is convicted of driving impaired offense.
Term of License Revocation While Under Habitual Offender Status:	For first offense, or any offense not proceeded within a 5-year period by a prior conviction: 90-day suspension or a 30-day absolute driving prohibition, with a following 60-day restricted license for work-related purposes and participation in substance abuse treatment programs. For an offense occurring within 5 years of a prior conviction – one-year revocation with no exceptions, and not more than 5 years total.
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status:	Class C felony {§ 291E-61.5 (c) }

---

<sup>329</sup> "Convicted three or more times for offenses of operating a vehicle under the influence" means that, at the time of the behavior for which the person is charged under this section, the person had three or more times within 10 years of the instant offense, including:

- (1) A judgment on a verdict or a finding of guilty, or a plea of guilty or nolo contendere;
- (2) A judgment on a verdict or a finding of guilty, or a plea of guilty or nolo contendere, for an offense that is comparable to this section or section 291-4, 291-4.4, or 291-7 as those sections were in effect on December 31, 2001, or section 291E-61 or 707-702.5; or
- (3) An adjudication of a minor for a law or probation violation that, if committed by an adult, would constitute a violation of this section or section 291-4, 291-4.4, or 291-7 as those sections were in effect on December 31, 2001, or section 291E-61 or 707-702.5; but
- (4) All convictions that have been expunged by pardon, reversed, or set aside prior to the instant offense shall not be deemed prior convictions for the purposes of proving the person's status as a habitual operator of a vehicle while under the influence of an intoxicant.



Sanctions Following a Conviction of Driving While on Habitual Offender Status:

Imprisonment (Term):	Indeterminate term of imprisonment up to <b>5 years</b> ; or <b>5 years probation</b> , with at least <b>10 days imprisonment</b> , with 48 hours served consecutively.
Mandatory Minimum Fine: Range of fine:	<b>\$500</b> plus <b>\$25</b> to the neurotrauma special fund. <b>\$500 to \$1,500</b> (\$2,500 on second offense), plus <b>\$25</b> neurotrauma fund fee.

Other Provisions Related To Alcohol Use:

Provisions Requiring BAC Chemical Tests on Persons Killed in Traffic

Accidents:

State Has Such a Provision (Yes/No): **Yes**

BAC Chemical Test Is Given to the Following Persons:

Driver:	<b>Yes</b>
Vehicle Passengers:	<b>Possible</b> -Indirect chemical test via the coroner §841-3
Pedestrian:	<b>Possible</b> -Indirect chemical test via the coroner §841-3

Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:<sup>330</sup>

Minimum Age (Years) Sale/Purchase:	<b>21.</b> §§2811-1, 281-78 and 281-101.5 <sup>331</sup>
Minimum Age (Years) Possession:	<b>21.</b> Employment situations, medical treatment and religious ceremonies are excluded. Any violation by someone under 18 shall be subject to the jurisdiction of the Family Court; any violation by someone 18 to 21 shall be a misdemeanor. And punishable by suspension of driver’s license for 180 days, except with permission from the court, the driver may operate the vehicle to and from school, to school-sponsored activities, and to employment. §§281-1, 281-78, 281-101.5 and 712-1250.5(2)(a) and (b)
Minimum Age (Years) Consumption:	<b>None</b>

Dram Shop Provisions and Related Legal Actions:

Dram Shop Provision (Yes/No): **Yes** – third-party liability for damages caused by intoxication of persons under age 21.

"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common

<sup>330</sup> Notwithstanding the prohibitions contained in §281-78, a university or college student who is under the legal drinking age may participate in wine-tasting as part of a course of study in food and beverage control, club management or classical food and beverage management offered by the University of Hawaii. §304-55

<sup>331</sup> Under some circumstance, a licensee may be held liable for the actions of an intoxicated minor to whom he/she has not sold alcoholic beverages, Such is the case if an underage person is allowed to purchase alcoholic beverages where it is “reasonably foreseeable” that the purchaser will give such beverages to another minor who could become intoxicated and cause injury to a third party. *Reyes v. Kuboyama*, 870 P. 2d 1281 (haw. 1994).

Law Rule by Action of the Highest Court of Record in the Case (Case Citation):

**Yes.** *Ono v. Applegate*, 612 P. 2d 533 (Haw. 1980).

Dram Shop Actions-Social Hosts:

**No.** *Johnston v. KFC Nat. Mgmt. Co.*, 788 P. 2d 159 (Haw. 1990), and *Faulk v. Suzuki Motor Co., Ltd.*, 851 P. 2d 332 (Haw. App. 1993).

Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

Type of Criminal Action:

**Misdemeanor:** Not more than **6 months**. §§281-78, 281-90 and 281-102

Fine (\$ Range):

Not more than **\$1,000**

Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

**Yes Suspension or Revocation**

Length of Term of License Withdrawal:

Not specified in the statute. A civil penalty of not more than \$2,000 may be assessed in lieu of a license suspension or revocation. §§281-78 and 281-91

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:

Type of Criminal Action:

**Misdemeanor**<sup>332</sup>

Term of Imprisonment:

Not more than **6 months**

Fine (\$ Range):

Not more than **\$1,000**. §§281-78, 281-91 and 281-

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

**Yes Suspension or Revocation**

Length of Term License Withdrawal:

Not specified in the statute. A civil penalty of not more than \$2,000 may be assessed in lieu of a license suspension or revocation. §§281-78 and 281-91<sup>333</sup>.

<sup>332</sup> Under §712-1250.5, it is a misdemeanor to promote intoxicating liquor to a minor; not more than 1 year in jail and /or a fine of not more than \$2,000.

<sup>333</sup> Alcoholic beverage licensing and enforcement is under the authority of county liquor commissions. §281-17

Anti-Happy Hour Provisions:

**Yes.** Rule 78.5 (Applying only to City and County of Honolulu) <sup>334</sup>. Under §281-78.5(a), licensees are prohibited from engaging in practices that promote the excessive consumption of alcoholic beverages. The various county commissions are required to promulgate regulations to prohibit specific practices that promote excessive consumption. §281-78.5(b).

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Provision (Yes/No):

**Yes.** §§291-3.1(a) and 291-3.29(a). <sup>335</sup>

Anti-Consumption Provision (Yes/No):

**Yes.** Driver and passengers. §§291-3.1(b), 291- 3.2(b) and 291-3.3.

---

<sup>334</sup> This regulation was promulgated by the City and County of Honolulu Liquor Commission and only applies in that jurisdiction.

<sup>335</sup> There is an exception in the case of motor vehicles for hire. §291-3.4.