
A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

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

1 SECTION 1. Section 287-20, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Whenever a driver's license has been suspended or
4 revoked:

5 (1) Pursuant to section 291E-65 or part III of chapter
6 291E, except as provided in section [~~291E-41(f)~~];
7 291E-41(e);

8 (2) Upon a conviction of any offense pursuant to law,
9 except where the conduct giving rise to the instant
10 offense is also a violation of part III of
11 chapter 291E and a requirement to furnish and maintain
12 proof of financial responsibility has already been
13 imposed pursuant to that part; or

14 (3) In the case of minors, pursuant to part V of
15 chapter 571,
16 the license shall not at any time thereafter be issued to the
17 person whose license has been suspended or revoked, nor shall



1 the person thereafter operate a motor vehicle, unless and until
 2 the person has furnished and thereafter maintains proof of
 3 financial responsibility; provided that this section shall not
 4 apply to a license suspended or revoked pursuant to section
 5 291E-61(b)(1) or 291E-64(b)(1), any conviction of a moving
 6 violation, any administrative license suspension pursuant to
 7 chapter 291A, or the first conviction within a five-year period
 8 for driving without a valid motor vehicle insurance policy.

9 This subsection shall not apply to a suspension or
 10 revocation of a provisional license under section 286-102.6(d)."

11 SECTION 2. Section 291E-31, Hawaii Revised Statutes, is
 12 amended to read as follows:

13 **"§291E-31 Notice of administrative revocation; effect.** As
 14 used in this part, the notice of administrative revocation:

15 (1) Establishes that the respondent's license and
 16 privilege to operate a vehicle in the State or on or
 17 in the waters of the State shall be terminated:

18 (A) Thirty days after the date the notice of
 19 administrative revocation is issued in the case
 20 of an alcohol related offense;



1 (B) Forty-four days after the date the notice of
2 administrative revocation is issued in the case
3 of a drug related offense; or

4 (C) Such later date as is established by the director
5 under section 291E-38[~~r~~
6 ~~if the director administratively revokes the~~
7 ~~respondent's license and privilege;~~];

8 (2) Establishes the date on which administrative
9 revocation proceedings against the respondent were
10 initiated;

11 (3) Serves as a temporary permit, if applicable, to
12 operate a vehicle as provided in section 291E-33; and

13 (4) Notifies the respondent that the respondent shall
14 obtain an ignition interlock permit and keep an
15 ignition interlock device installed and operating in
16 any vehicle the respondent operates during the
17 revocation period if the respondent had a valid
18 license at the time of the arrest."

19 SECTION 3. Section 291E-34, Hawaii Revised Statutes, is
20 amended by amending subsections (b) to (e) to read as follows:



1 "(b) The notice, when completed by the law enforcement
2 officer and issued to the respondent, shall contain at a minimum
3 the following information relating to the incident that gives
4 rise to the issuance of the notice of administrative revocation:

5 (1) Information identifying the respondent;

6 (2) The specific violation for which the respondent was
7 arrested;

8 (3) The date issued and the date the administrative
9 revocation is scheduled to go into effect;

10 (4) The expiration date of the temporary permit; and

11 (5) That the [~~issuance of the notice of administrative~~
12 ~~revocation will be administratively reviewed.~~]
13 respondent may request an administrative review.

14 (c) The notice shall provide, at a minimum, the following
15 information relating to [~~the~~] an administrative review:

16 (1) That the review is not automatic[+] but will be done
17 upon submission of a completed request from the
18 respondent, if the request is submitted within eight
19 days of the issuance of the notice of administrative
20 revocation;



- 1 (2) That the respondent, [~~within three days of the~~
2 ~~issuance of the notice of administrative revocation in~~
3 ~~the case of an alcohol related offense and within~~
4 ~~seventeen days of the issuance of the notice of~~
5 ~~administrative revocation in the case of a drug~~
6 ~~related offense,~~] along with the request for review,
7 may submit written information demonstrating why the
8 respondent's license and privilege to operate a
9 vehicle should not be administratively revoked;
- 10 (3) The address or location where the respondent may
11 submit the request and information;
- 12 (4) That the respondent is not entitled to be present or
13 represented at the administrative review; and
- 14 (5) That the administrative review decision shall be
15 mailed to the respondent:
- 16 (A) No later than [~~eight~~] fourteen days after the
17 date [~~of the issuance of the notice of~~
18 ~~administrative revocation in the case of an~~
19 ~~alcohol related offense; and~~] the request for
20 administrative review was mailed or hand-



1 delivered by the respondent in the case of an
2 alcohol-related offense; and

3 (B) No later than [~~twenty-two~~] twenty-eight days
4 after the date [~~of the issuance of the notice of~~
5 ~~administrative revocation in the case of a drug~~
6 ~~related offense.~~] the request for administrative
7 review was mailed or hand-delivered by the
8 respondent in the case of a drug related offense.

9 (d) The notice shall state that, if the administrative
10 review determines that the respondent's license and privilege to
11 operate a vehicle [~~is~~] does not [~~administratively revoked after~~
12 ~~the review,~~] meet the requirements for administrative
13 revocation, the respondent's license shall be returned, unless a
14 subsequent alcohol or drug enforcement contact has occurred,
15 along with a certified statement that the administrative
16 revocation proceedings have been terminated.

17 (e) The notice shall state that, if the administrative
18 review determines that the respondent's license and privilege to
19 operate a vehicle [~~is administratively revoked after the~~
20 ~~review,~~] meets the requirements for administrative revocation, a
21 decision shall be mailed to the respondent, or to the parent or



1 guardian of the respondent if the respondent is under the age of
2 eighteen, that shall contain, at a minimum, the following
3 information:

4 (1) The reasons why the respondent's license and privilege
5 to operate a vehicle is administratively revoked;

6 (2) That the respondent may request the director, within
7 six days of the date the decision is mailed, to
8 schedule an administrative hearing to review the
9 administrative revocation;

10 (3) That, if the respondent's request for an
11 administrative hearing is received by the director
12 within six days of the date the decision was mailed,
13 the hearing shall be scheduled to commence:

14 (A) No later than twenty-five days after the date [~~of~~
15 ~~the issuance of the notice of administrative~~
16 ~~revocation]~~ the request for administrative review
17 was mailed or hand-delivered by the respondent in
18 the case of an alcohol related offense; and

19 (B) No later than thirty-nine days after the date [~~of~~
20 ~~the issuance of the notice of administrative~~
21 ~~revocation]~~ the request for administrative review



- 1 was mailed or hand-delivered by the respondent in
2 the case of a drug related offense;
- 3 (4) The procedure to request an administrative hearing;
- 4 (5) That failure to request an administrative hearing
5 within the time provided shall cause the
6 administrative revocation to take effect for the
7 period and under the conditions established by the
8 director in the decision;
- 9 (6) That the respondent may regain the right to a hearing
10 by requesting the director, within sixty days after
11 the [~~issuance of the notice of administrative~~
12 ~~revocation,~~] date the request for administrative
13 review was mailed or hand-delivered by the respondent,
14 to schedule a hearing;
- 15 (7) That the director shall schedule the hearing to
16 commence no later than thirty days after the date a
17 request under paragraph (6) is received, but that,
18 except as provided in section 291E-38(j), the
19 temporary permit shall not be extended if the
20 respondent fails to request an administrative hearing



1 within the initial six-day period provided for that
2 purpose;

3 (8) That failure to attend the hearing shall cause the
4 administrative revocation to take effect for the
5 period and under the conditions indicated;

6 (9) The duration of the administrative revocation and
7 other conditions that may be imposed, including:
8 referral to the driver's education program for an
9 assessment of the respondent's substance abuse or
10 dependence and the need for treatment; and

11 (10) That the respondent shall obtain an ignition interlock
12 permit in order to operate a vehicle during the
13 revocation period if the respondent had a valid
14 license at the time of the arrest."

15 SECTION 4. Section 291E-37, Hawaii Revised Statutes, is
16 amended as follows:

17 1. By amending subsections (a) and (b) to read:

18 "(a) The director [~~automatically~~] shall review the
19 issuance of a notice of administrative revocation upon receipt
20 of a completed request for administrative review, and shall
21 issue a written decision [~~administratively revoking~~] confirming



1 administrative revocation of the license and privilege to
2 operate a vehicle or rescinding the notice of administrative
3 revocation. The written review decision shall be mailed to the
4 respondent, or to the parent or guardian of the respondent if
5 the respondent is under the age of eighteen, no later than:

6 (1) [~~Eight~~] Fourteen days after the date the [~~notice was~~
7 ~~issued~~] request for administrative review was mailed
8 or hand-delivered by the respondent in a case
9 involving an alcohol related offense; or

10 (2) [~~Twenty-two~~] Twenty-eight days after the date the
11 [~~notice was issued~~] request for administrative review
12 was mailed or hand-delivered by the respondent in a
13 case involving a drug related offense.

14 (b) The respondent shall have the opportunity to
15 demonstrate in writing why the respondent's license and
16 privilege to operate a vehicle should not be administratively
17 revoked and, within [~~three~~] eight days of receiving the notice
18 of administrative revocation, [~~as provided in section 291E-33,~~
19 ~~shall~~] may submit any written information[~~7~~] together with the
20 completed request for administrative review, either by mail or



1 in person, to the director's office or to any office or address
2 designated by the director for that purpose."

3 2. By amending subsection (d) to read:

4 "(d) The director shall [~~administratively revoke~~] confirm
5 administrative revocation of the respondent's license and
6 privilege to operate a vehicle if the director determines that:

7 (1) There existed reasonable suspicion to stop the
8 vehicle, the vehicle was stopped at an intoxicant
9 control roadblock established and operated in
10 compliance with sections 291E-19 and 291E-20, or the
11 person was tested pursuant to section 291E-21;

12 (2) There existed probable cause to believe that the
13 respondent operated the vehicle while under the
14 influence of an intoxicant; and

15 (3) The evidence proves by a preponderance that:

16 (A) The respondent operated the vehicle while under
17 the influence of an intoxicant; or

18 (B) The respondent operated the vehicle and refused
19 to submit to a breath, blood, or urine test after
20 being informed:



1 (i) That the person may refuse to submit to
2 testing in compliance with section 291E-11;
3 and

4 (ii) Of the sanctions of this part and then asked
5 if the person still refuses to submit to a
6 breath, blood, or urine test, in compliance
7 with the requirements of section 291E-15."

8 3. By amending subsections (f) and (g) to read:

9 "(f) If the director [~~administratively revokes~~] confirms
10 administrative revocation of the respondent's license and
11 privilege to operate a vehicle, the director shall mail a
12 written review decision to the respondent, or to the parent or
13 guardian of the respondent if the respondent is under the age of
14 eighteen. The written review decision shall:

15 (1) State the reasons for confirming the administrative
16 revocation;

17 (2) Indicate that the respondent has six days from the
18 date the decision is mailed to request an
19 administrative hearing to [~~review~~] reconsider the
20 director's decision;



- 1 (3) Explain the procedure by which to request an
2 administrative hearing;
- 3 (4) Be accompanied by a form, postage prepaid, that the
4 respondent may fill out and mail in order to request
5 an administrative hearing;
- 6 (5) Inform the respondent of the right to [~~review~~] view
7 and copy all documents considered at the review,
8 including the arrest report and the sworn statements
9 of law enforcement officers or other persons, prior to
10 the hearing; and
- 11 (6) State that the respondent may be represented by
12 counsel at the hearing, submit evidence, give
13 testimony, and present and cross-examine witnesses,
14 including the arresting law enforcement officer.
- 15 (g) Failure of the respondent to request a hearing within
16 the time provided in section 291E-38(a) shall cause the
17 administrative revocation to take effect for the period and
18 under the conditions provided in the administrative review
19 decision issued by the director under this section. The
20 respondent may regain the right to an administrative hearing by
21 requesting the director, within sixty days of the [~~issuance~~ of



1 ~~the notice of administrative revocation as provided in section~~
2 ~~291E-33,] date the request for administrative review was mailed~~
3 ~~or hand-delivered by the respondent,~~ to schedule an
4 administrative hearing. The administrative hearing shall then
5 be scheduled to commence no later than thirty days after the
6 date the request for hearing is received by the director. The
7 administrative review decision issued by the director under this
8 section shall explain clearly the consequences of failure to
9 request an administrative hearing and the procedure by which the
10 respondent may regain the right to a hearing."

11 SECTION 5. Section 291E-38, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) If the director [~~administratively revokes~~] confirms
14 administrative revocation of the respondent's license and
15 privilege to operate a vehicle after the administrative review,
16 the respondent may request an administrative hearing to [~~review~~]
17 reconsider the decision [~~within six days of the date the~~
18 ~~administrative review decision is mailed~~]. If the request for
19 hearing is received by the director within six days of the date
20 the administrative review decision is mailed, the hearing shall
21 be scheduled to commence no later than:



1 (1) Twenty-five days from the date the [~~notice of~~
2 ~~administrative revocation was issued~~] request for
3 administrative review was mailed or hand-delivered by
4 the respondent in a case involving an alcohol related
5 offense; or

6 (2) Thirty-nine days from the date the [~~notice of~~
7 ~~administrative revocation was issued~~] request for
8 administrative review was mailed or hand-delivered by
9 the respondent in a case involving a drug related
10 offense.

11 The director may continue the hearing only as provided in
12 subsection (j)."

13 SECTION 6. Section 291E-41, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§291E-41 Effective date, conditions, and period of**
16 **administrative revocation; criteria.** (a) Unless an
17 administrative revocation is rescinded or reversed or the
18 temporary permit is extended by the director, administrative
19 revocation shall become effective on the day specified in the
20 notice of administrative revocation. Except as provided in
21 section 291E-44.5, no license to operate a vehicle shall be



1 restored under any circumstances during the administrative
2 revocation period. Upon completion of the administrative
3 revocation period, the respondent may reapply and be reissued a
4 license pursuant to section 291E-45.

5 (b) Except as provided in [~~paragraphs (4) (A) (ii) and~~
6 paragraph (5) and [~~in~~] section 291E-44.5, the respondent shall
7 keep an ignition interlock device installed and operating in all
8 vehicles operated by the respondent during the revocation
9 period. Except as provided in section 291E-5, installation and
10 maintenance of the ignition interlock device shall be at the
11 respondent's expense. The periods of administrative revocation,
12 with respect to a license to operate a vehicle, that shall be
13 imposed under this part are as follows:

14 (1) [A] If the respondent's record shows no prior alcohol
15 enforcement contact or drug enforcement contact during
16 the ten years preceding the date the notice of
17 administrative revocation was issued:

18 (A) A one year revocation of license to operate a
19 vehicle[~~, if the respondent's record shows no~~
20 prior alcohol enforcement contact or drug
21 enforcement contact during the ten years



1 ~~preceding the date the notice of administrative~~
2 ~~revocation was issued]; or~~

3 (B) An eighteen-month revocation of license to
4 operate a vehicle if the respondent is a highly
5 intoxicated driver;

6 (2) ~~[A two-year revocation of license to operate a~~
7 ~~vehicle, if] If the respondent's record shows one~~
8 prior alcohol enforcement contact or drug enforcement
9 contact during the ten years preceding the date the
10 notice of administrative revocation was issued[+] :

11 (A) A two-year revocation of license to operate a
12 vehicle; or

13 (B) A three-year revocation of license to operate a
14 vehicle if the respondent is a highly intoxicated
15 driver; and

16 (3) ~~[A four-year revocation of license to operate a~~
17 ~~vehicle, if] If the respondent's record shows two or~~
18 more prior alcohol enforcement contacts or drug
19 enforcement contacts during the ten years preceding
20 the date the notice of administrative revocation was
21 issued[+] :



- 1 (A) A four-year revocation of license to operate a
- 2 vehicle; or
- 3 (B) A six-year revocation of license to operate a
- 4 vehicle if the respondent is a highly intoxicated
- 5 driver;
- 6 ~~[(4) For a respondent who is a highly intoxicated driver:~~
- 7 ~~(A) If the respondent's record shows no prior alcohol~~
- 8 ~~enforcement contact or drug enforcement contact~~
- 9 ~~during the ten years preceding the date the~~
- 10 ~~notice of administrative revocation was issued:~~
- 11 ~~(i) An eighteen-month revocation of license to~~
- 12 ~~operate a vehicle, with mandatory~~
- 13 ~~installation of an ignition interlock device~~
- 14 ~~in all vehicles operated by the respondent~~
- 15 ~~during the revocation period; or~~
- 16 ~~(ii) A two-year revocation of license to operate~~
- 17 ~~a vehicle, without mandatory installation of~~
- 18 ~~an ignition interlock device in all vehicles~~
- 19 ~~operated by the respondent during the~~
- 20 ~~revocation period;~~



1 ~~(B) If the respondent's record shows one prior~~
2 ~~alcohol enforcement contact or drug enforcement~~
3 ~~contact during the ten years preceding the date~~
4 ~~the notice of administrative revocation was~~
5 ~~issued, a three-year revocation of license to~~
6 ~~operate a vehicle, with mandatory installation of~~
7 ~~an ignition interlock device in all vehicles~~
8 ~~operated by the respondent during the revocation~~
9 ~~period; and~~

10 ~~(C) If the respondent's record shows two or more~~
11 ~~prior alcohol enforcement contacts or drug~~
12 ~~enforcement contacts during the ten years~~
13 ~~preceding the date the notice of administrative~~
14 ~~revocation was issued, a six-year revocation of~~
15 ~~license to operate a vehicle, with mandatory~~
16 ~~installation of an ignition interlock device in~~
17 ~~all vehicles operated by the respondent during~~
18 ~~the revocation period;]~~

19 (4) If a respondent has refused to be tested after being
20 informed:



- 1 (A) That the person may refuse to submit to testing
2 in compliance with section 291E-11; and
- 3 (B) Of the sanctions of this part and then asked if
4 the person still refuses to submit to a breath,
5 blood, or urine test, in compliance with the
6 requirements of section 291E-15,
7 then the applicable revocation period imposed under
8 paragraph (1), (2), or (3) shall be doubled.
- 9 (5) For respondents under the age of eighteen years who
10 were arrested for a violation of section 291E-61 or
11 291E-61.5, revocation of license and privilege to
12 operate a vehicle for the appropriate revocation
13 period provided in paragraphs (1) to ~~[(3) or in~~
14 ~~subsection (c);]~~ (4); provided that the respondent
15 shall be prohibited from driving during the period
16 preceding the respondent's eighteenth birthday and
17 shall thereafter be subject to the ignition interlock
18 requirement of this subsection for the balance of the
19 revocation period; or
- 20 (6) For respondents, other than those excepted pursuant to
21 section 291E-44.5(c), who do not install an ignition



1 interlock device in all vehicles operated by the
2 respondent during the revocation period, revocation of
3 license to operate a vehicle for the period of
4 revocation provided in paragraphs (1) to [~~(4)(A) or in~~
5 ~~subsection (e);~~] (4); provided that:

6 (A) The respondent shall be absolutely prohibited
7 from driving during the revocation period and
8 subject to the penalties provided by section
9 291E-62 if the respondent drives during the
10 revocation period; and

11 (B) The director shall not issue an ignition
12 interlock permit to the respondent pursuant to
13 section 291E-44.5;

14 provided further that when more than one
15 administrative revocation, suspension, or conviction
16 arises out of the same arrest, it shall be counted as
17 only one prior alcohol enforcement contact or drug
18 enforcement contact, whichever revocation, suspension,
19 or conviction occurs later.

20 [~~(e) If a respondent has refused to be tested after being~~
21 informed:



1 ~~(1) That the person may refuse to submit to testing in~~
2 ~~compliance with section 291E-11; and~~
3 ~~(2) Of the sanctions of this part and then asked if the~~
4 ~~person still refuses to submit to a breath, blood, or~~
5 ~~urine test, in compliance with the requirements of~~
6 ~~section 291E-15,~~
7 ~~the revocation imposed under subsection (b) (1), (2), or (3)~~
8 ~~shall be for a period of two years, four years, or eight years,~~
9 ~~respectively.~~

10 ~~(d)]~~ (c) Whenever a license to operate a vehicle is
11 administratively revoked under this part, the respondent shall
12 be referred to the driver's education program for an assessment,
13 by a certified substance abuse counselor, of the respondent's
14 substance abuse or dependence and the need for treatment. The
15 counselor shall submit a report with recommendations to the
16 director. If the counselor's assessment establishes that the
17 extent of the respondent's substance abuse or dependence
18 warrants treatment, the director shall so order. All costs for
19 assessment and treatment shall be paid by the respondent.



1 [~~(e)~~] (d) Alcohol and drug enforcement contacts that
2 occurred prior to January 1, 2002, shall be counted in
3 determining the administrative revocation period.

4 [~~(f)~~] (e) The requirement to provide proof of financial
5 responsibility pursuant to section 287-20 shall not be based
6 upon a revocation under subsection [~~(b)(1)~~] (b)(1)(A)."

7 SECTION 7. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 8. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 9. This Act shall take effect on July 1, 3000.



Report Title:

ADLRO; Automatic License Revocation; Impaired Driving; Penalties

Description:

Amends the administrative process at the Administrative Driver's License Revocation Office. Establishes a tiered administration revocation period of a driver's license for those arrested for operating a vehicle under the influence of an intoxicant. Effective 7/1/3000. (HD1)

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