
A BILL FOR AN ACT

RELATING TO ADMINISTRATIVE DRIVERS LICENSE REVOCATION.

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

1 SECTION 1. Section 291E-34, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "(e) The notice shall state that, if the respondent's
4 license and privilege to operate a vehicle is administratively
5 revoked after the review, a decision shall be mailed to the
6 respondent, or to the parent or guardian of the respondent if
7 the respondent is under the age of eighteen, that shall contain,
8 at a minimum, the following information:

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

11 (2) That the respondent may request the director, within
12 six days of the date the decision is mailed, to
13 schedule an administrative hearing to review the
14 administrative revocation;

15 (3) That, if the respondent's request for an
16 administrative hearing is received by the director



1 within six days of the date the decision was mailed,
2 the hearing shall be scheduled to commence:

3 (A) No later than twenty-five days after the date of
4 the issuance of the notice of administrative
5 revocation in the case of an alcohol related
6 offense; and

7 (B) No later than thirty-nine days after the date of
8 the issuance of the notice of administrative
9 revocation in the case of a drug related offense;

10 (4) The procedure to request an administrative hearing;

11 (5) That failure to request an administrative hearing
12 within the time provided shall cause the
13 administrative revocation to take effect for the
14 period and under the conditions established by the
15 director in the decision;

16 (6) That the respondent may regain the right to a hearing
17 by requesting the director, within sixty days after
18 the issuance of the notice of administrative
19 revocation, to schedule a hearing;

20 (7) That the director shall schedule the hearing to
21 commence no later than thirty days after a request



1 under paragraph (6) is received, but that, except as
2 provided in section [~~291E-38(j)~~], 291E-38(k), the
3 temporary permit shall not be extended if the
4 respondent fails to request an administrative hearing
5 within the initial six-day period provided for that
6 purpose;

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

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

15 (10) That the respondent shall obtain an ignition interlock
16 permit in order to operate a vehicle during the
17 revocation period if the respondent had a valid
18 license at the time of the arrest."

19 SECTION 2. Section 291E-38, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§291E-38 Administrative hearing; procedure; decision.

2 (a) If the director administratively revokes the respondent's
3 license and privilege to operate a vehicle after the
4 administrative review, the respondent may request an
5 administrative hearing to review the decision within six days of
6 the date the administrative review decision is mailed. If the
7 request for hearing is received by the director within six days
8 of the date the decision is mailed, the hearing shall be
9 scheduled to commence no later than:

10 (1) Twenty-five days from the date the notice of
11 administrative revocation was issued in a case
12 involving an alcohol related offense; or

13 (2) Thirty-nine days from the date the notice of
14 administrative revocation was issued in a case
15 involving a drug related offense.

16 The director may continue the hearing only as provided in
17 subsection [~~(j)~~] (k).

18 (b) The hearing shall be held at a place designated by the
19 director, as close to the location where the notice of
20 administrative revocation was issued as practical.



1 (c) The hearing may be held by interactive conference
2 technology that allows interaction by the director, any party,
3 and counsel, if retained by the party. An administrative
4 hearing held by interactive conference technology shall be
5 recessed for up to one hour when audio communication cannot be
6 maintained; provided that the hearing may reconvene when only
7 audio communication is reestablished. If audio-only
8 communication is reestablished, then each speaker shall state
9 the speaker's name before making remarks.

10 For the purposes of this subsection, "interactive
11 conference technology" means any form of audio or audio and
12 visual conference technology, including teleconference,
13 videoconference, and voice over internet protocol, that may be
14 used to facilitate interaction between the director, any party,
15 and counsel, if retained by the party, in a hearing conducted
16 under this section.

17 [~~(e)~~] (d) The respondent may be represented by counsel
18 and, if the respondent is under the age of eighteen, [~~must~~]
19 shall be accompanied by a parent or guardian.

20 [~~(d)~~] (e) The director shall conduct the hearing and have
21 authority to:



- 1 (1) Administer oaths and affirmations;
- 2 (2) Examine witnesses and take testimony;
- 3 (3) Receive and determine the relevance of evidence;
- 4 provided that if the hearing is held by interactive
- 5 conference technology, as provided in subsection (c),
- 6 evidence may be submitted and exchanged by electronic
- 7 means;
- 8 (4) Issue subpoenas;
- 9 (5) Regulate the course and conduct of the hearing; and
- 10 (6) Make a final ruling.

11 [~~e~~] (f) The director shall affirm the administrative
12 revocation only if the director determines that:

- 13 (1) There existed reasonable suspicion to stop the
14 vehicle, the vehicle was stopped at an intoxicant
15 control roadblock established and operated in
16 compliance with sections 291E-19 and 291E-20, or the
17 person was tested pursuant to section 291E-21;
- 18 (2) There existed probable cause to believe that the
19 respondent operated the vehicle while under the
20 influence of an intoxicant; and
- 21 (3) The evidence proves by a preponderance that:



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

3 (B) The respondent operated the vehicle and refused
4 to submit to a breath, blood, or urine test after
5 being informed:

6 (i) That the person may refuse to submit to
7 testing in compliance with section 291E-11;
8 and

9 (ii) Of the sanctions of this part and then asked
10 if the person still refuses to submit to a
11 breath, blood, or urine test in compliance
12 with the requirements of section 291E-15.

13 [~~(f)~~] (g) The respondent's prior alcohol and drug
14 enforcement contacts shall be entered into evidence.

15 [~~(g)~~] (h) The sworn statements provided in section 291E-36
16 shall be admitted into evidence. The director shall consider
17 the sworn statements in the absence of the law enforcement
18 officer or other person. Upon written notice to the director,
19 no later than five days [~~prior to~~] before the hearing, that the
20 respondent wishes to examine a law enforcement officer or other
21 person who made a sworn statement, the director shall issue a



1 subpoena for the officer or other person to appear at the
2 hearing. Personal service upon the law enforcement officer or
3 other person who made a sworn statement shall be made no later
4 than forty-eight hours [~~prior to~~] before the hearing time. If
5 the officer or other person cannot appear, the officer or other
6 person at the discretion of the director, may testify by
7 telephone.

8 [~~(h)~~] (i) The hearing shall be recorded in a manner to be
9 determined by the director.

10 [~~(i)~~] (j) The director's decision shall be rendered in
11 writing and mailed to the respondent, or to the parent or
12 guardian of the respondent if the respondent is under the age of
13 eighteen, no later than five days after the hearing is
14 concluded. If the decision is to reverse the administrative
15 revocation, the director shall return the respondent's license,
16 along with a certified statement that administrative revocation
17 proceedings have been terminated. If the decision sustains the
18 administrative revocation, the director shall mail to the
19 respondent a written decision indicating the duration of the
20 administrative revocation and any other conditions or
21 restrictions as may be imposed pursuant to section 291E-41.



1 ~~[(j)]~~ (k) For good cause shown, the director may grant a
2 continuance either of the commencement of the hearing or of a
3 hearing that has already commenced. If a continuance is granted
4 at the request of the director, the director shall extend the
5 validity of the temporary permit, unless otherwise prohibited,
6 for a period not to exceed the period of the continuance. If a
7 continuance is granted at the request of the respondent, the
8 director shall not extend the validity of the temporary permit.
9 For purposes of this section, a continuance means a delay in the
10 commencement of the hearing or an interruption of a hearing that
11 has commenced, other than for recesses during the day or at the
12 end of the day or week. The absence from the hearing of a law
13 enforcement officer or other person, upon whom personal service
14 of a subpoena has been made as set forth in subsection ~~[(g)]~~
15 (h), constitutes good cause for a continuance.

16 ~~[(k)]~~ (l) The director may grant a special motor vehicle
17 registration, pursuant to section 291E-48, to a qualified
18 household member or a co-owner of any motor vehicle upon
19 determination that:

20 (1) The person is completely dependent on the motor
21 vehicle for the necessities of life; and



1 (2) At the time of the application for a special motor
2 vehicle registration, the respondent does not have a
3 valid ignition interlock permit.

4 The special motor vehicle registration shall not be valid for
5 use by the respondent.

6 ~~[-(l)-]~~ (m) If the respondent fails to appear at the
7 hearing, or if a respondent under the age of eighteen fails to
8 appear with a parent or guardian, administrative revocation
9 shall take effect for the period and under the conditions
10 established by the director in the administrative review
11 decision issued by the director under section 291E-37."

12 SECTION 3. Section 291E-46, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§291E-46 Computation of time.** The time in which any act
15 provided in this part is to be done is computed by excluding the
16 first day and including the last, unless the last day is a
17 Saturday, Sunday, or state holiday, and then it also is
18 excluded; provided that if the last day for the mailing of
19 decisions under sections 291E-37(a) and ~~[291E-38(i)]~~ 291E-38(j)
20 is a federal holiday, it also is excluded."



1 SECTION 4. Section 291E-48, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Anytime after the effective date of revocation or
4 after the administrative hearing decision is mailed pursuant to
5 section [~~291E-38(i)~~], 291E-38(j), a qualified household member
6 or co-owner of a motor vehicle with a respondent who has had a
7 motor vehicle registration revoked under this part may submit a
8 sworn statement to the director requesting a special motor
9 vehicle registration. The director may grant the request upon
10 determining that the following conditions have been met:

- 11 (1) The applicant is a household member of the
12 respondent's or a co-owner of the vehicle;
- 13 (2) The applicant has a license that has not expired or
14 been suspended or revoked;
- 15 (3) The applicant is completely dependent on the motor
16 vehicle for the necessities of life;
- 17 (4) The director finds that the applicant will take
18 reasonable precautions to ensure that the respondent
19 will not drive the vehicle; and
- 20 (5) The respondent does not have a valid ignition
21 interlock permit.



1 A person to whom a special motor vehicle registration has been
2 granted shall apply to the director of the appropriate county
3 agency for special series number plates, as provided in section
4 249-9.4."

5 SECTION 5. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 6. This Act shall take effect upon its approval.



Report Title:

Judiciary Package; Administrative Drivers License Revocation Hearings; Interactive Conference Technology

Description:

Authorizes administrative drivers license revocation hearings to be conducted using interactive conference technology, including teleconference, videoconference, and voice over internet protocol (VoIP) systems. Clarifies that evidence in hearings conducted via interactive conference technology may be submitted and exchanged electronically. Effective 7/1/3000. (HD1)

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