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# A BILL FOR AN ACT

RELATING TO ADMINISTRATIVE LICENSE REVOCATION.

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

1 SECTION 1. Section 291E-31, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§291E-31 Notice of administrative revocation; effect.** As  
4 used in this part, the notice of administrative revocation:

5 (1) Establishes that the respondent's license and  
6 privilege to operate a vehicle in the State or on or  
7 in the waters of the State shall be [~~terminated~~]  
8 administratively revoked:

9 (A) Thirty days after the date the notice of  
10 administrative revocation is issued in the case  
11 of an alcohol related offense;

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

15 (C) [~~Such~~] If the respondent requests an  
16 administrative hearing, then at a later date as



1 is established by the director under section  
2 291E-38,  
3 [~~if~~] unless and until the director [~~administratively~~  
4 ~~revokes the respondent's license and privilege;~~]  
5 rescinds the administrative revocation;

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

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

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

17 SECTION 2. Section 291E-34, Hawaii Revised Statutes, is  
18 amended by amending subsections (c) through (i) to read as  
19 follows:

20 "(c) The notice shall provide, at a minimum, the following  
21 information relating to the administrative review:



- 1 (1) That the review is automatic;
- 2 (2) That the respondent, within three days of the issuance  
3 of the notice of administrative revocation in the case  
4 of an alcohol related offense and within seventeen  
5 days of the issuance of the notice of administrative  
6 revocation in the case of a drug related offense, may  
7 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, or electronic mailing  
11 address where the respondent may submit the  
12 information;
- 13 (4) That the respondent is not entitled to be present or  
14 represented at the administrative review; and
- 15 (5) That the administrative review decision shall be  
16 mailed to the respondent:
- 17 (A) No later than [~~eight~~] fourteen days after the  
18 date of the issuance of the notice of  
19 administrative revocation in the case of an  
20 alcohol related offense; and



1 (B) No later than [~~twenty-two~~] twenty-eight days  
 2 after the date of the issuance of the notice of  
 3 administrative revocation in the case of a drug  
 4 related offense[~~-~~];  
 5 provided that if the administrative review decision is  
 6 not mailed to the respondent within such period, the  
 7 administrative revocation shall take effect thirty  
 8 days or forty-four days after the date the notice of  
 9 administrative revocation was issued, as applicable,  
 10 unless and until the director rescinds the  
 11 administrative revocation.

12 (d) The notice shall state that, if [~~the respondent's~~  
 13 ~~license and privilege to operate a vehicle is not~~  
 14 ~~administratively revoked~~] after the review, the [~~respondent's~~  
 15 ~~license shall be returned, unless a subsequent alcohol or drug~~  
 16 ~~enforcement contact has occurred, along with~~] director rescinds  
 17 the administrative revocation, the respondent shall be given a  
 18 certified statement that the administrative revocation  
 19 proceedings have been terminated[~~-~~] and, unless a subsequent  
 20 alcohol or drug enforcement contact has occurred, the  
 21 respondent's license shall be returned.



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

8 (1) The reasons why revocation of the respondent's license  
9 and privilege to operate a vehicle is  
10 [~~administratively revoked;~~] affirmed;

11 (2) That the respondent may request the director, within  
12 six days of the date the review 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  
17 within six days of the date the review decision was  
18 mailed, the hearing shall be scheduled to commence:

19 (A) No later than twenty-five days after the date of  
20 the issuance of the notice of administrative



1 revocation in the case of an alcohol related  
 2 offense; and

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

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

7 (5) That failure to request an administrative hearing  
 8 within the time provided shall cause the  
 9 administrative revocation to [~~take~~] remain in effect  
 10 [~~for the period and~~] under the conditions established  
 11 by the director in the review decision;

12 (6) That the respondent may regain the right to a hearing  
 13 by requesting the director, within sixty days after  
 14 the issuance of the notice of administrative  
 15 revocation, to schedule a hearing;

16 (7) That the director shall schedule the hearing to  
 17 commence no later than thirty days after the date a  
 18 request under paragraph (6) is received, but that,  
 19 except as provided in section 291E-38(j), the  
 20 temporary permit shall not be extended if the  
 21 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~~] remain in effect  
5 for the 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 (f) The notice shall provide, at a minimum, the following  
16 information relating to administrative hearings:

17 (1) That the respondent shall have six days from the date  
18 the administrative review decision was mailed to  
19 request that an administrative hearing be scheduled;

20 (2) That a request for an administrative hearing and  
21 payment of a \$30 fee, unless waived pursuant to



1 section 291E-39, shall entitle the respondent to  
2 review and copy, [~~prior to~~] before the hearing, all  
3 documents that were considered at the administrative  
4 review, including the arrest report and the sworn  
5 statements;

6 (3) That the respondent may be represented by an attorney,  
7 submit evidence, give testimony, and present and  
8 cross-examine witnesses;

9 (4) That, in cases where the respondent is under the age  
10 of eighteen, a parent or guardian must be present; and

11 (5) That a written hearing decision shall be mailed no  
12 later than five days after completion of the hearing.

13 (g) The notice shall state that, if the administrative  
14 revocation is [~~reversed~~] rescinded after the hearing, the  
15 [~~respondent's license shall be returned, along with~~] respondent  
16 shall be given a certified statement that the administrative  
17 revocation proceedings have been terminated[-] and, unless a  
18 subsequent alcohol or drug enforcement contact has occurred, the  
19 respondent's license shall be returned.

20 (h) The notice shall state that, if the administrative  
21 revocation is [~~sustained~~] affirmed at the hearing, a written



1 hearing decision shall be mailed to the respondent, or to the  
2 parent or guardian of the respondent if the respondent is under  
3 the age of eighteen, that shall contain, at a minimum, the  
4 following information:

- 5 (1) The effective date of the administrative revocation;
- 6 (2) The duration of the administrative revocation;
- 7 (3) Other conditions that may be imposed by law, including  
8 the use of an ignition interlock device; and
- 9 (4) The right to obtain judicial review.

10 (i) The notice shall state that failure of the respondent,  
11 or of the parent or guardian of the respondent if the respondent  
12 is under the age of eighteen, to attend a scheduled hearing  
13 shall cause the administrative revocation to [~~take~~] remain in  
14 effect as provided in the administrative review decision."

15 SECTION 3. Section 291E-36, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17 "(a) Whenever a respondent has been arrested for a  
18 violation of section 291E-61 or 291E-61.5 and submits to a test  
19 that establishes: the respondent's alcohol concentration was  
20 .08 or more; the presence, in the respondent's blood or urine,  
21 of any drug that is capable of impairing the respondent's



1 ability to operate a vehicle in a careful and prudent manner; or  
2 whenever a respondent has been involved in a collision resulting  
3 in injury or death and a blood or urine test performed pursuant  
4 to section 291E-21 establishes that the respondent's alcohol  
5 concentration was .08 or more or establishes the presence in the  
6 respondent's blood or urine of any drug that is capable of  
7 impairing the respondent's ability to operate a vehicle in a  
8 careful and prudent manner, the following shall be forwarded  
9 immediately to the director:

10 (1) A copy of the arrest report or the report of the law  
11 enforcement officer who issued the notice of  
12 administrative revocation to the person involved in a  
13 collision resulting in injury or death and the sworn  
14 statement of the arresting law enforcement officer or  
15 the officer who issued the notice of administrative  
16 revocation, stating facts that establish that:

17 (A) There was reasonable suspicion to stop the  
18 vehicle, the vehicle was stopped at an intoxicant  
19 control roadblock established and operated in  
20 compliance with sections 291E-19 and 291E-20, or



1           the respondent was tested pursuant to section  
2           291E-21;

3           (B) There was probable cause to believe that the  
4           respondent had been operating the vehicle while  
5           under the influence of an intoxicant; and

6           (C) The respondent agreed to be tested or the person  
7           was tested pursuant to section 291E-21;

8           (2) In a case involving an alcohol related offense, the  
9           sworn statement of the person responsible for  
10          maintenance of the testing equipment, stating facts  
11          that establish that, pursuant to section 321-161 and  
12          rules adopted thereunder:

13          (A) The equipment used to conduct the test was  
14          approved for use as an alcohol testing device in  
15          this State;

16          (B) The person had been trained and at the time the  
17          test was conducted was certified and capable of  
18          maintaining the testing equipment; and

19          (C) The testing equipment used had been properly  
20          maintained and was in good working condition when  
21          the test was conducted;



- 1           (3) In a case involving an alcohol related offense, the  
2                   sworn statement of the person who conducted the test,  
3                   stating facts that establish that, pursuant to section  
4                   321-161 and rules adopted thereunder:
- 5                   (A) The person was trained and at the time the test  
6                               was conducted was certified and capable of  
7                               operating the testing equipment;
- 8                   (B) The person followed the procedures established  
9                               for conducting the test;
- 10                  (C) The equipment used to conduct the test functioned  
11                               in accordance with operating procedures and  
12                               indicated that the respondent's alcohol  
13                               concentration was at, or above, the prohibited  
14                               level; and
- 15                  (D) The person whose breath or blood was tested is  
16                               the respondent;
- 17           (4) In a case involving a drug related offense, the sworn  
18                   statement of the person responsible for maintenance of  
19                   the testing equipment, stating facts that establish  
20                   that, pursuant to section 321-161 and rules adopted  
21                   thereunder:



- 1 (A) The equipment used to conduct the test was
- 2 approved for use in drug testing;
- 3 (B) The person [~~conducting the test~~] had been trained
- 4 and, at the time of the test, was certified and
- 5 capable of maintaining the testing equipment; and
- 6 (C) The testing equipment used had been properly
- 7 maintained and was in good working condition when
- 8 the test was conducted;
- 9 (5) In a case involving a drug related offense, the sworn
- 10 statement of the person who conducted the test,
- 11 stating facts that establish that, pursuant to section
- 12 321-161 and rules adopted thereunder:
- 13 (A) At the time the test was conducted, the person
- 14 was trained and capable of operating the testing
- 15 equipment;
- 16 (B) The person followed the procedures established
- 17 for conducting the test;
- 18 (C) The equipment used to conduct the test functioned
- 19 in accordance with operating procedures and
- 20 indicated the presence of one or more drugs or



1                   their metabolites in the respondent's blood or  
2                   urine; and

3                   (D) The person whose blood or urine was tested is the  
4                   respondent;

5                   (6) A copy of the notice of administrative revocation  
6                   issued by the law enforcement officer to the  
7                   respondent;

8                   (7) Any license taken into possession by the law  
9                   enforcement officer; and

10                  (8) A listing of any prior alcohol or drug enforcement  
11                  contacts involving the respondent."

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

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

15                  "(a) The director shall automatically review the issuance  
16 of a notice of administrative revocation and shall issue a  
17 written review decision [~~administratively revoking~~] affirming  
18 administrative revocation of the license and privilege to  
19 operate a vehicle or rescinding the notice of administrative  
20 revocation. The written review decision shall be mailed to the



1 respondent, or to the parent or guardian of the respondent if  
2 the respondent is under the age of eighteen, no later than:

3 (1) Fourteen days after the date the notice was issued in  
4 a case involving an alcohol related offense; or

5 (2) Twenty-eight days after the date the notice was issued  
6 in a case involving a drug related offense.

7 (b) The respondent shall have the opportunity to  
8 demonstrate in writing why the respondent's license and  
9 privilege to operate a vehicle should not be administratively  
10 revoked and, within three days of receiving the notice of  
11 administrative revocation, as provided in section 291E-33, shall  
12 submit any written information[~~either~~] by mail, electronic  
13 mail, or in person, to the director's office or to any office or  
14 address designated by the director for that purpose."

15 2. By amending subsections (d) through (g) to read:

16 "(d) The director shall [~~administratively revoke~~] affirm  
17 the administrative revocation of the respondent's license and  
18 privilege to operate a vehicle if the director determines that:

19 (1) There existed reasonable suspicion to stop the  
20 vehicle, the vehicle was stopped at an intoxicant  
21 control roadblock established and operated in



1 compliance with sections 291E-19 and 291E-20, or the  
2 person was tested pursuant to section 291E-21;

3 (2) There existed probable cause to believe that the  
4 respondent operated the vehicle while under the  
5 influence of an intoxicant; and

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

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

9 (B) The respondent operated the vehicle and refused  
10 to submit to a breath, blood, or urine test after  
11 being informed:

12 (i) That the person may refuse to submit to  
13 testing in compliance with section 291E-11;  
14 and

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

19 (e) If the evidence does not support administrative  
20 revocation, the director shall rescind the notice of  
21 administrative revocation [~~and return the respondent's license~~



1 ~~along with~~], provide a certified statement that administrative  
2 revocation proceedings have been terminated~~[=]~~, and, unless a  
3 subsequent alcohol or drug enforcement contact has occurred,  
4 return the respondent's license.

5 (f) If the director [~~administratively revokes~~] affirms the  
6 administrative revocation of the respondent's license and  
7 privilege to operate a vehicle, the director shall mail a  
8 written review decision to the respondent, or to the parent or  
9 guardian of the respondent if the respondent is under the age of  
10 eighteen. The written review decision shall:

- 11 (1) State the reasons for the administrative revocation;
- 12 (2) Indicate that the respondent has six days from the  
13 date the written review decision is mailed to request  
14 an administrative hearing to [~~review~~] contest the  
15 director's written review decision;
- 16 (3) Explain the procedure by which to request an  
17 administrative hearing;
- 18 (4) Be accompanied by a form, postage prepaid, that the  
19 respondent may fill out and mail in order to request  
20 an administrative hearing;



- 1 (5) Inform the respondent of the right to review and copy  
2 all documents considered at the review, including the  
3 arrest report and the sworn statements of law  
4 enforcement officers or other persons, [~~prior to~~  
5 before the hearing; and
- 6 (6) State that the respondent may be represented by  
7 counsel at the hearing, submit evidence, give  
8 testimony, and present and cross-examine witnesses,  
9 including the arresting law enforcement officer.
- 10 (g) Failure of the respondent to request a hearing within  
11 the time provided in section 291E-38(a) shall cause the  
12 administrative revocation to [~~take~~] remain in effect for the  
13 period and under the conditions provided in the administrative  
14 review decision issued by the director under this section. The  
15 respondent may regain the right to an administrative hearing by  
16 requesting the director, within sixty days of the issuance of  
17 the notice of administrative revocation as provided in section  
18 291E-33, to schedule an administrative hearing. The  
19 administrative hearing shall then be scheduled to commence no  
20 later than thirty days after the date the request for hearing is  
21 received by the director. The administrative review decision



1 issued by the director under this section shall explain clearly  
2 the consequences of failure to request an administrative hearing  
3 and the procedure by which the respondent may regain the right  
4 to a hearing."

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

7 "(a) If the director [~~administratively revokes~~] affirms  
8 the administrative revocation of the respondent's license and  
9 privilege to operate a vehicle after the administrative review,  
10 the respondent may request an administrative hearing to review  
11 the administrative review decision within six days of the date  
12 the administrative review decision is mailed. If the request  
13 for hearing is received by the director within six days of the  
14 date the review decision is mailed, the hearing shall be  
15 scheduled to commence no later than:

- 16 (1) Twenty-five days from the date the notice of  
17 administrative revocation was issued in a case  
18 involving an alcohol related offense; or  
19 (2) Thirty-nine days from the date the notice of  
20 administrative revocation was issued in a case  
21 involving a drug related offense.



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

3 SECTION 6. Section 291E-41, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) Unless an administrative revocation is [~~reversed~~]  
6 rescinded or the temporary permit is extended by the director,  
7 administrative revocation shall become effective on the day  
8 specified in the notice of administrative revocation. Except as  
9 provided in section 291E-44.5, no license to operate a vehicle  
10 shall be restored under any circumstances during the  
11 administrative revocation period. Upon completion of the  
12 administrative revocation period, the respondent may reapply and  
13 be reissued a license pursuant to section 291E-45."

14 SECTION 7. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 8. This Act shall take effect upon its approval.



**Report Title:**

Administrative Driver's License Revocation; Notice; Disclosure

**Description:**

Clarifies administrative driver's license revocation procedures by specifying the effect of the notice of administrative revocation and conforming related administrative review and hearing provisions. (CD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

