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

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

14 (C) [~~Such~~] If the respondent requests an  
15 administrative hearing, then at such later date  
16 as is established by the director under section  
17 291E-38,



1           [if] unless the director [~~administratively revokes the~~  
2           ~~respondent's license and privilege;~~] rescinds the  
3           administrative revocation;

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

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

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

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

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

19          (1) That the review is automatic;

20          (2) That the respondent, within three days of the issuance  
21          of the notice of administrative revocation in the case



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



1 (d) The notice shall state that, if [~~the respondent's~~  
2 ~~license and privilege to operate a vehicle is not~~  
3 ~~administratively revoked~~] after the review, the director  
4 rescinds the administrative revocation, the respondent's license  
5 shall be returned, unless a subsequent alcohol or drug  
6 enforcement contact has occurred, along with a certified  
7 statement that the administrative revocation proceedings have  
8 been terminated.

9 (e) The notice shall state that, if the administrative  
10 review affirms the revocation of the respondent's license and  
11 privilege to operate a vehicle [~~is administratively revoked~~  
12 ~~after the review~~], a review decision shall be mailed to the  
13 respondent, or to the parent or guardian of the respondent if  
14 the respondent is under the age of eighteen, that shall contain,  
15 at a minimum, the following information:

- 16 (1) The reasons why revocation of the respondent's license  
17 and privilege to operate a vehicle is  
18 [~~administratively revoked,~~] affirmed;
- 19 (2) That the respondent may request the director, within  
20 six days of the date the review decision is mailed, to



- 1 schedule an administrative hearing to review the  
2 administrative revocation;
- 3 (3) That, if the respondent's request for an  
4 administrative hearing is received by the director  
5 within six days of the date the review decision was  
6 mailed, the hearing shall be scheduled to commence:
- 7 (A) No later than twenty-five days after the date of  
8 the issuance of the notice of administrative  
9 revocation in the case of an alcohol related  
10 offense; and
- 11 (B) No later than thirty-nine days after the date of  
12 the issuance of the notice of administrative  
13 revocation in the case of a drug related offense;
- 14 (4) The procedure to request an administrative hearing;
- 15 (5) That failure to request an administrative hearing  
16 within the time provided shall cause the  
17 administrative revocation to [~~take~~] remain in effect  
18 [~~for the period and~~] under the conditions established  
19 by the director in the review decision;
- 20 (6) That the respondent may regain the right to a hearing  
21 by requesting the director, within sixty days after



- 1 the issuance of the notice of administrative  
2 revocation, to schedule a hearing;
- 3 (7) That the director shall schedule the hearing to  
4 commence no later than thirty days after the date a  
5 request under paragraph (6) is received, but that,  
6 except as provided in section 291E-38(j), the  
7 temporary permit shall not be extended if the  
8 respondent fails to request an administrative hearing  
9 within the initial six-day period provided for that  
10 purpose;
- 11 (8) That failure to attend the hearing shall cause the  
12 administrative revocation to [~~take~~] remain in effect  
13 for the period and under the conditions indicated;
- 14 (9) The duration of the administrative revocation and  
15 other conditions that may be imposed, including:  
16 referral to the driver's education program for an  
17 assessment of the respondent's substance abuse or  
18 dependence and the need for treatment; and
- 19 (10) That the respondent shall obtain an ignition interlock  
20 permit in order to operate a vehicle during the



1 revocation period if the respondent had a valid  
2 license at the time of the arrest.

3 (f) The notice shall provide, at a minimum, the following  
4 information relating to administrative hearings:

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

8 (2) That a request for an administrative hearing and  
9 payment of a \$30 fee, unless waived pursuant to  
10 section 291E-39, shall entitle the respondent to  
11 review and copy, prior to the hearing, all documents  
12 that were considered at the administrative review,  
13 including the arrest report and the sworn statements;

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

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

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



1 (g) The notice shall state that, if the administrative  
2 revocation is [~~reversed~~] rescinded after the hearing, the  
3 respondent's license shall be returned, along with a certified  
4 statement that the administrative revocation proceedings have  
5 been terminated.

6 (h) The notice shall state that, if the administrative  
7 revocation is sustained at the hearing, a written hearing  
8 decision shall be mailed to the respondent, or to the parent or  
9 guardian of the respondent if the respondent is under the age of  
10 eighteen, that shall contain, at a minimum, the following  
11 information:

- 12 (1) The effective date of the administrative revocation;  
13 (2) The duration of the administrative revocation;  
14 (3) Other conditions that may be imposed by law, including  
15 the use of an ignition interlock device; and  
16 (4) The right to obtain judicial review.

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



1 SECTION 3. Section 291E-37, Hawaii Revised Statutes, is  
2 amended as follows:

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

4 "(a) The director shall automatically review the issuance  
5 of a notice of administrative revocation and shall issue a  
6 written review decision [~~administratively revoking~~] affirming  
7 administrative revocation of the license and privilege to  
8 operate a vehicle or rescinding the notice of administrative  
9 revocation. The written review decision shall be mailed to the  
10 respondent, or to the parent or guardian of the respondent if  
11 the respondent is under the age of eighteen, no later than:

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

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

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



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

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

4 "(d) The director shall [~~administratively revoke~~] affirm  
5 the 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~~] affirms  
10 the 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 the administrative revocation;  
16 (2) Indicate that the respondent has six days from the  
17 date the written review decision is mailed to request  
18 an administrative hearing to [~~review~~] contest the  
19 director's written review decision;  
20 (3) Explain the procedure by which to request an  
21 administrative hearing;



- 1 (4) Be accompanied by a form, postage prepaid, that the  
2 respondent may fill out and mail in order to request  
3 an administrative hearing;
- 4 (5) Inform the respondent of the right to review and copy  
5 all documents considered at the review, including the  
6 arrest report and the sworn statements of law  
7 enforcement officers or other persons, prior to the  
8 hearing; and
- 9 (6) State that the respondent may be represented by  
10 counsel at the hearing, submit evidence, give  
11 testimony, and present and cross-examine witnesses,  
12 including the arresting law enforcement officer.
- 13 (g) Failure of the respondent to request a hearing within  
14 the time provided in section 291E-38(a) shall cause the  
15 administrative revocation to [~~take~~] remain in effect for the  
16 period and under the conditions provided in the administrative  
17 review decision issued by the director under this section. The  
18 respondent may regain the right to an administrative hearing by  
19 requesting the director, within sixty days of the issuance of  
20 the notice of administrative revocation as provided in section  
21 291E-33, to schedule an administrative hearing. The



1 administrative hearing shall then be scheduled to commence no  
2 later than thirty days after the date the request for hearing is  
3 received by the director. The administrative review decision  
4 issued by the director under this section shall explain clearly  
5 the consequences of failure to request an administrative hearing  
6 and the procedure by which the respondent may regain the right  
7 to a hearing."

8 SECTION 4. Section 291E-38, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

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

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



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

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

6           SECTION 5. Section 291E-41, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

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

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

19           SECTION 7. This Act shall take effect on July 1, 3000.



**Report Title:**

Administrative Driver's License Revocation; Notice; Disclosure

**Description:**

Clarifies administrative driver's license revocation procedures by establishing the notice of administrative revocation as official notice of the starting date for administrative driver's license revocation. Effective 7/1/3000. (HD1)

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

