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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 such later date



1 as is established by the director under section  
2 291E-38,  
3 [~~if~~] unless the director [~~administratively revokes the~~  
4 ~~respondent's license and privilege;~~] rescinds the  
5 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) to (i) to read as follows:

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

21 (1) That the review is automatic;



- 1           (2) That the respondent, within three days of the issuance  
2           of the notice of administrative revocation in the case  
3           of an alcohol related offense and within seventeen  
4           days of the issuance of the notice of administrative  
5           revocation in the case of a drug related offense, may  
6           submit written information demonstrating why the  
7           respondent's license and privilege to operate a  
8           vehicle should not be administratively revoked;
- 9           (3) The address [~~or~~], location, or electronic mailing  
10          address where the respondent may submit the  
11          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
- 20                (B) No later than [~~twenty-two~~] twenty-eight days  
21                after the date of the issuance of the notice of



1 administrative revocation in the case of a drug  
2 related offense.

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

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



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



1 administrative revocation to [~~take~~] remain in effect  
2 [~~for the period and~~] under the conditions established  
3 by the director in the review decision;

4 (6) That the respondent may regain the right to a hearing  
5 by requesting the director, within sixty days after  
6 the issuance of the notice of administrative  
7 revocation, to schedule a hearing;

8 (7) That the director shall schedule the hearing to  
9 commence no later than thirty days after the date a  
10 request under paragraph (6) is received, but that,  
11 except as provided in section 291E-38(j), the  
12 temporary permit shall not be extended if the  
13 respondent fails to request an administrative hearing  
14 within the initial six-day period provided for that  
15 purpose;

16 (8) That failure to attend the hearing shall cause the  
17 administrative revocation to [~~take~~] remain in effect  
18 for the period and under the conditions indicated;

19 (9) The duration of the administrative revocation and  
20 other conditions that may be imposed, including[+]  
21 referral to the driver's education program for an



1 assessment of the respondent's substance abuse or  
2 dependence and the need for treatment; and

3 (10) That the respondent shall obtain an ignition interlock  
4 permit in order to operate a vehicle during the  
5 revocation period if the respondent had a valid  
6 license at the time of the arrest.

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

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

12 (2) That a request for an administrative hearing and  
13 payment of a \$30 fee, unless waived pursuant to  
14 section 291E-39, shall entitle the respondent to  
15 review and copy, [~~prior to~~] before the hearing, all  
16 documents that were considered at the administrative  
17 review, including the arrest report and the sworn  
18 statements;

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



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

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

5 (g) The notice shall state that, if the administrative  
6 revocation is [~~reversed~~] rescinded after the hearing, the  
7 [~~respondent's license shall be returned, along with~~] respondent  
8 shall be given a certified statement that the administrative  
9 revocation proceedings have been terminated~~[.]~~ and, unless a  
10 subsequent alcohol or drug enforcement contact has occurred, the  
11 respondent's license shall be returned.

12 (h) The notice shall state that, if the administrative  
13 revocation is [~~sustained~~] affirmed at the hearing, a written  
14 hearing decision shall be mailed to the respondent, or to the  
15 parent or guardian of the respondent if the respondent is under  
16 the age of eighteen, that shall contain, at a minimum, the  
17 following information:

18 (1) The effective date of the administrative revocation;

19 (2) The duration of the administrative revocation;

20 (3) Other conditions that may be imposed by law, including  
21 the use of an ignition interlock device; and



1 (4) The right to obtain judicial review.

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

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

9 "(a) Whenever a respondent has been arrested for a  
10 violation of section 291E-61 or 291E-61.5 and submits to a test  
11 that establishes: the respondent's alcohol concentration was  
12 .08 or more; the presence, in the respondent's blood or urine,  
13 of any drug that is capable of impairing the respondent's  
14 ability to operate a vehicle in a careful and prudent manner; or  
15 whenever a respondent has been involved in a collision resulting  
16 in injury or death and a blood or urine test performed pursuant  
17 to section 291E-21 establishes that the respondent's alcohol  
18 concentration was .08 or more or establishes the presence in the  
19 respondent's blood or urine of any drug that is capable of  
20 impairing the respondent's ability to operate a vehicle in a



1 careful and prudent manner, the following shall be forwarded  
2 immediately to the director:

3 (1) A copy of the arrest report or the report of the law  
4 enforcement officer who issued the notice of  
5 administrative revocation to the person involved in a  
6 collision resulting in injury or death and the sworn  
7 statement of the arresting law enforcement officer or  
8 the officer who issued the notice of administrative  
9 revocation, stating facts that establish that:

10 (A) There was reasonable suspicion to stop the  
11 vehicle, the vehicle was stopped at an intoxicant  
12 control roadblock established and operated in  
13 compliance with sections 291E-19 and 291E-20, or  
14 the respondent was tested pursuant to section  
15 291E-21;

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

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



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

6                    (A) The equipment used to conduct the test was  
7                            approved for use as an alcohol testing device in  
8                            this State;

9                    (B) The person had been trained and at the time the  
10                           test was conducted was certified and capable of  
11                           maintaining the testing equipment; and

12                   (C) The testing equipment used had been properly  
13                           maintained and was in good working condition when  
14                           the test was conducted;

15           (3) In a case involving an alcohol related offense, the  
16                    sworn statement of the person who conducted the test,  
17                    stating facts that establish that, pursuant to section  
18                    321-161 and rules adopted thereunder:

19                    (A) The person was trained and at the time the test  
20                            was conducted was certified and capable of  
21                            operating the testing equipment;



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



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



1 (6) A copy of the notice of administrative revocation  
2 issued by the law enforcement officer to the  
3 respondent;

4 (7) Any license taken into possession by the law  
5 enforcement officer; and

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

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

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

11 "(a) The director shall automatically review the issuance  
12 of a notice of administrative revocation and shall issue a  
13 written review decision [~~administratively revoking~~] affirming  
14 administrative revocation of the license and privilege to  
15 operate a vehicle or rescinding the notice of administrative  
16 revocation. The written review decision shall be mailed to the  
17 respondent, or to the parent or guardian of the respondent if  
18 the respondent is under the age of eighteen, no later than:

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



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

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

11 2. By amending subsection (d) to (g) to read:

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

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



- 1 (2) There existed probable cause to believe that the  
2 respondent operated the vehicle while under the  
3 influence of an intoxicant; and
- 4 (3) The evidence proves by a preponderance that:
- 5 (A) The respondent operated the vehicle while under  
6 the influence of an intoxicant; or
- 7 (B) The respondent operated the vehicle and refused  
8 to submit to a breath, blood, or urine test after  
9 being informed:
- 10 (i) That the person may refuse to submit to  
11 testing in compliance with section 291E-11;  
12 and
- 13 (ii) Of the sanctions of this part and then asked  
14 if the person still refuses to submit to a  
15 breath, blood, or urine test, in compliance  
16 with the requirements of section 291E-15.
- 17 (e) If the evidence does not support administrative  
18 revocation, the director shall rescind the notice of  
19 administrative revocation [~~and return the respondent's license~~  
20 ~~along with~~], provide a certified statement that administrative  
21 revocation proceedings have been terminated~~[-]~~, and, unless a



1 subsequent alcohol or drug enforcement contact has occurred,  
2 return the respondent's license.

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

- 9 (1) State the reasons for the administrative revocation;
- 10 (2) Indicate that the respondent has six days from the  
11 date the written review decision is mailed to request  
12 an administrative hearing to [~~review~~] contest the  
13 director's written review decision;
- 14 (3) Explain the procedure by which to request an  
15 administrative hearing;
- 16 (4) Be accompanied by a form, postage prepaid, that the  
17 respondent may fill out and mail in order to request  
18 an administrative hearing;
- 19 (5) Inform the respondent of the right to review and copy  
20 all documents considered at the review, including the  
21 arrest report and the sworn statements of law



1 enforcement officers or other persons, [~~prior to~~]  
2 before the hearing; and

3 (6) State that the respondent may be represented by  
4 counsel at the hearing, submit evidence, give  
5 testimony, and present and cross-examine witnesses,  
6 including the arresting law enforcement officer.

7 (g) Failure of the respondent to request a hearing within  
8 the time provided in section 291E-38(a) shall cause the  
9 administrative revocation to [~~take~~] remain in effect for the  
10 period and under the conditions provided in the administrative  
11 review decision issued by the director under this section. The  
12 respondent may regain the right to an administrative hearing by  
13 requesting the director, within sixty days of the issuance of  
14 the notice of administrative revocation as provided in section  
15 291E-33, to schedule an administrative hearing. The  
16 administrative hearing shall then be scheduled to commence no  
17 later than thirty days after the date the request for hearing is  
18 received by the director. The administrative review decision  
19 issued by the director under this section shall explain clearly  
20 the consequences of failure to request an administrative hearing



1 and the procedure by which the respondent may regain the right  
2 to a hearing."

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

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

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

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

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



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

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

12 SECTION 7. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 8. 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 specifying the effect of the notice of administrative revocation and conforming related administrative review and hearing provisions. Effective 7/1/3000. (HD2)

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

