
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 a later date as
16 [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 as follows:

17 1. By amending subsection (c) to read:

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

20 (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 days after the date of the
17 issuance of the notice of administrative
18 revocation in the case of an alcohol related
19 offense; and
- 20 (B) No later than twenty-two days after the date of
21 the issuance of the notice of administrative



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

3 2. By amending subsections (d) through (i) to read:

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

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

19 (1) The reasons why the revocation the respondent's
20 license and privilege to operate a vehicle [~~is~~
21 ~~administratively revoked,~~] is affirmed;



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



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



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

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

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

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

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

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



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

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

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

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

19 (i) The notice shall state that failure of the respondent,
20 or of the parent or guardian of the respondent if the respondent
21 is under the age of eighteen, to attend a scheduled hearing



1 shall cause the administrative revocation to [~~take~~] remain in
2 effect as provided in the administrative review decision."

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

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

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

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

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

18 (b) The respondent shall have the opportunity to
19 demonstrate in writing why the respondent's license and
20 privilege to operate a vehicle should not be administratively
21 revoked and, within three days of receiving the notice of



1 administrative revocation, as provided in section 291E-33, shall
2 submit any written information[~~, either~~] by mail, electronic
3 mail, or in person, to the director's office or to any office or
4 address designated by the director for that purpose."

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

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

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



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

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

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

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

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

18 (1) State the reasons for the administrative revocation;

19 (2) Indicate that the respondent has six days from the

20 date the written review decision is mailed to request



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



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

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

14 "(a) If the director [~~administratively revokes~~] affirms
15 the administrative revocation of the respondent's license and
16 privilege to operate a vehicle after the administrative review,
17 the respondent may request an administrative hearing to review
18 the administrative review decision within six days of the date
19 the administrative review decision is mailed. If the request
20 for hearing is received by the director within six days of the



1 date the administrative review decision is mailed, the hearing
2 shall be scheduled to commence no later than:

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

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

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

11 SECTION 5. Section 291E-41, Hawaii Revised Statutes, is
12 amended to read as follows:

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



1 SECTION 6. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 7. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

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



Report Title:

Administrative Driver's License Revocation; Notice; Disclosure

Description:

Clarifies an administrative driver's license revocation takes automatic effect thirty days after a Notice of Administrative Revocation that the revocation remains in effect until the Administrative Driver's License Revocation Office affirms or rescinds the administrative revocation. Clarifies review timelines for the administrative review and hearing processes.
(SD1)

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

