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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 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.*

