

A Bill for an Act Relating to Administrative Revocation of Driver's License.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-251, Hawaii Revised Statutes, is amended by amending the definition of "arrestee" to read as follows:

““Arrestee” means [the] a person arrested for violation of section 291-4 [who is subject to administrative revocation pursuant to this part.] and, for purposes of this part, also refers to a person from whom a blood sample has been drawn pursuant to section 286-163, because there was probable cause to believe that the person has violated section 291-4.”

SECTION 2. Section 286-255, Hawaii Revised Statutes, is amended to read as follows:

“**\$286-255 Arrest; procedures.** (a) Whenever a person is arrested for a violation of section 291-4, on a determination by the arresting officer that:

- (1) There was reasonable suspicion to stop the motor vehicle, or that the motor vehicle was stopped at an intoxication and drug control roadblock established and operated in compliance with sections 286-162.5 and 286-162.6; and
- (2) There was probable cause to believe that the arrestee was driving, operating, or in actual physical control of the motor vehicle while under the influence of intoxicating liquor;

the arresting officer immediately shall [immediately] take possession of any license held by the person and request the arrestee to take a test for concentration of alcohol in the blood. The arresting officer shall inform the person that the person has the option to take a breath test, a blood test, or both. The arresting officer also shall [also] inform the person of the sanctions under this part, including the sanction for refusing to take a breath or a blood test. [The] Thereafter, the arresting officer shall [then] complete and issue to the arrestee a notice of administrative revocation and shall indicate thereon whether the notice shall serve as a temporary permit. The notice shall serve as a temporary permit, unless, at the time of arrest, the arrestee was unlicensed, the arrestee's license was revoked or suspended, or the arrestee had no license in the arrestee's possession.

(b) Whenever the police determine that, as the result of a blood test performed pursuant to section 286-163(b) and (c), there is probable cause to believe that a person being treated in a hospital or medical facility has violated section 291-4, the police shall complete and issue to the person a notice of administrative revocation and shall indicate thereon whether the notice shall serve as a temporary permit. The notice shall serve as a temporary permit unless, at the time the notice was issued, the person was unlicensed, the person's license was revoked or suspended, or the person had no license in the person's possession.”

SECTION 3. Section 286-257, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Whenever a person: is arrested for a violation of section 291-4 and submits to a test that establishes that the arrestee's alcohol concentration was .08 or more[.]; or has been involved in a collision resulting in injury or death and a blood test performed pursuant to section 286-163 establishes that the person's alcohol

concentration was .08 or more, the following shall be immediately forwarded to the director:

- (1) A copy of the arrest report or the report of the officer who issued the notice of administrative revocation to the person involved in a collision resulting in injury or death and the sworn statement of the arresting officer or the officer who issued the notice of administrative revocation stating facts that establish that:
 - (A) There was reasonable suspicion to stop the motor vehicle [or], the motor vehicle was stopped at an intoxication and drug control roadblock established and operated in compliance with sections 286-162.5 and 286-162.6[;], or the person was tested pursuant to section 286-163;
 - (B) There was probable cause to believe that the arrestee had been driving, operating, or in actual physical control of the motor vehicle while under the influence of intoxicating liquor;
 - (C) The arrestee was informed of the sanctions of this part, that criminal charges may be filed, and the consequences of refusing to be tested for alcohol concentration; and
 - (D) The arrestee agreed to be tested[;] or the person was tested pursuant to section 286-163;
- (2) The sworn statement of the person responsible for maintenance of the testing equipment stating facts that establish that pursuant to section 321-161 and rules adopted thereunder:
 - (A) The equipment used to conduct the test was approved for use as an alcohol testing device in this State;
 - (B) The person had been trained and at the time the test was conducted was certified and capable of maintaining the testing equipment; and
 - (C) The testing equipment used had been properly maintained and was in good working condition when the test was conducted;
- (3) The sworn statement of the person who conducted the test stating facts that establish that pursuant to section 321-161 and rules adopted thereunder:
 - (A) The person was trained and at the time the test was conducted was certified and capable of operating the testing equipment;
 - (B) The person followed the procedures established for conducting the test;
 - (C) The equipment used to conduct the test functioned in accordance with operating procedures and indicated that the person's alcohol concentration was at, or above, the prohibited level; and
 - (D) The person whose breath or blood was tested was the person arrested;
- (4) A copy of the notice of administrative revocation issued to the arrestee;
- (5) Any driver's license taken into possession by the arresting officer; and
- (6) A listing of any prior alcohol enforcement contacts involving the arrestee."

SECTION 4. Section 286-258, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) The director shall administratively revoke the arrestee's driver's license if the director determines that:

- (1) There existed reasonable suspicion to stop the motor vehicle [or], the motor vehicle was stopped at an intoxication and drug control

roadblock established and operated in compliance with sections 286-162.5 and 286-162.6[;], or the person was tested pursuant to section 286-163;

- (2) There existed probable cause to believe that the arrestee drove, operated, or was in actual physical control of the motor vehicle while under the influence of intoxicating liquor; and
- (3) The evidence proves by a preponderance that the arrestee drove, operated, or was in actual physical control of the motor vehicle while under the influence of intoxicating liquor or while having an alcohol concentration of .08 or more or that the arrestee refused to submit to a breath or blood test after being informed of the sanctions of this part.”

SECTION 5. Section 286-259, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The director shall affirm the administrative revocation only if the director determines that:

- (1) There existed reasonable suspicion to stop the motor vehicle [or], the motor vehicle was stopped at an intoxication and drug control roadblock established and operated in compliance with sections 286-162.5 and 286-162.6[;], or the person was tested pursuant to section 286-163;
- (2) There existed probable cause to believe that the arrestee drove, operated, or was in actual physical control of the motor vehicle while under the influence of intoxicating liquor; and
- (3) The evidence proves by a preponderance that the arrestee drove, operated, or was in actual physical control of the motor vehicle while under the influence of intoxicating liquor or while having an alcohol concentration of .08 or more or that the arrestee refused to submit to a breath or blood test after being informed of the sanctions of this part.”

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

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved May 26, 1998.)