



GOV. MSG. NO. 1444

NEIL ABERCROMBIE
GOVERNOR

EXECUTIVE CHAMBERS
HONOLULU

July 11, 2012

The Honorable Shan S. Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin K.Y. Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say, and Members of the Legislature:

Re: House Bill No. 2320, H.D. 2, S.D. 2, C.D. 1


On July 10, 2012, House Bill No. 2320, H.D. 2, S.D. 2, C.D. 1, entitled "A Bill for an Act Relating to Highway Safety," became law as Act 327 without my signature, pursuant to Section 16 of Article III of the Constitution of the State of Hawaii.

The purposes of this bill are to: (1) allow a person whose driver's license was revoked after December 31, 2010, to apply for a driver's license renewal; (2) allow a repeat intoxicated driver, who is arrested after December 31, 2010, and is otherwise eligible to operate a motor vehicle with an ignition interlock system, to obtain a motor vehicle registration and number plate, by requiring the Administrative Director of the Courts to remove any stopper imposed on the motor vehicle registration files; (3) to allow persons who have been convicted of habitually operating a vehicle under the influence of an intoxicant, pursuant to section 291E-61.5, Hawaii Revised Statutes, to continue driving with an ignition interlock device installed in their vehicles; (4) to allow persons, whose licenses were administratively revoked for their lifetimes, to petition the district court to initially drive with an ignition interlock device, and after a minimum of five years of operating a vehicle with an ignition interlock device, to petition the district court for an unrestricted license; and (5) to make housekeeping amendments to chapter 291E, Hawaii Revised Statutes.

Studies have shown that many drivers who have had their licenses revoked continue to operate their vehicles illegally and create a risk to other vehicles, pedestrians, and bicyclists on the road. I support efforts to include as many identified and impaired drivers as possible in an effective ignition interlock program, which this law attempts to do. However, this law does raise serious concerns. The provision of the law allowing people who have received lifetime license revocations to be relicensed may jeopardize public safety and give favorable treatment to the most serious offenders. The law also allows these same offenders to potentially be treated as first time offenders upon a subsequent conviction for operating a vehicle under the influence of

an intoxicant. It will be necessary to amend this law in the next legislative session to provide for stricter monitoring and supervision of these serious offenders.

Despite these concerns, and in the hope that allowing more identified and impaired drivers into the ignition interlock program will make our roads safer, I allowed H.B. 2320, H.D. 2, S.D. 2, C.D. 1 to become law as Act 327 without my signature.

Aloha
Sincerely,

NEIL ABERCROMBIE
Governor of Hawaii

Governor's signature JUL 10 2012

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

H.B. NO.

2320
H.D. 2
S.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to make amendments
2 to the State's ignition interlock law recommended by the Hawaii
3 ignition interlock implementation task force pursuant to Act
4 171, Session Laws of Hawaii 2008, as amended by Act 88, Session
5 Laws of Hawaii 2009, and Act 166, Session Laws of Hawaii 2010.
6 This Act also expands applicability of the ignition interlock
7 law.

8 SECTION 2. Chapter 286, Hawaii Revised Statutes, is
9 amended by adding a new section to part VI to be appropriately
10 designated and to read as follows:

11 **"§286-A License revoked for operating a vehicle under the**
12 **influence of an intoxicant; eligibility for license renewal.**

13 **Notwithstanding any other law to the contrary, any person**
14 **arrested for a violation of section 291E-61 or 291E-61.5 after**
15 **December 31, 2010, whose license is revoked pursuant to this**
16 **part or section 291E-61, and who otherwise qualifies for a**
17 **permit under section 291E-44.5 or 291E-61, may apply for a**



1 renewal or reactivation of a driver's license as provided in
2 section 286-107 or 286-107.5; provided that:

3 (1) The license renewal or reactivation shall be for the
4 sole purpose of obtaining or extending a permit issued
5 pursuant to section 291E-44.5 or 291E-61;

6 (2) No physical driver's license shall be issued to the
7 person; and

8 (3) The driver's license shall expire as provided in
9 section 286-106 or upon the end of the revocation
10 period, whichever occurs first."

11 SECTION 3. Chapter 291E, Hawaii Revised Statutes, is
12 amended by adding a new section to part III to be appropriately
13 designated and to read as follows:

14 "§291E-A Repeat intoxicated driver after December 31,
15 2010; eligibility to obtain motor vehicle registration and
16 number plates. Any repeat intoxicated driver arrested for a
17 violation of section 291E-61 or 291E-61.5 after December 31,
18 2010, may request that the director remove any stopper imposed
19 on the motor vehicle registration files pursuant to part III of
20 chapter 291E. Upon request, the director shall remove the
21 stopper as soon as practicable."



1 SECTION 4. Chapter 291E, Hawaii Revised Statutes, is
2 amended by adding a new section to part IV to be appropriately
3 designated and to read as follows:

4 "§291E-B Petition for ignition interlock instruction
5 permit and ignition interlock permit; eligibility; requirements.

6 (a) This section shall apply to the following:

7 (1) Any person subject to a lifetime license revocation
8 pursuant to part III, as that part was in effect
9 before January 1, 2011, or part XIV of chapter 286, as
10 that part was in effect before January 1, 2002;

11 (2) Any person who was arrested pursuant to section 291E-
12 61 or 291E-61.5 before January 1, 2011, and whose
13 license revocation period has not terminated;

14 (3) Except as provided in section 286-A, any person whose
15 license was expired, had a learner's permit or
16 instruction permit, or who was otherwise unlicensed at
17 the time of arrest pursuant to section 291E-61 or
18 291E-61.5; and

19 (4) Any person arrested pursuant to section 291E-61 or
20 291E-61.5 whose driver's license from another state is
21 expired or will expire during the license revocation



1 period and who applies for a permit under this
2 section.

3 (b) Any person under subsection (a) may file a petition in
4 the district court for permission to apply for an ignition
5 interlock instruction permit that will allow the person to take
6 the driving demonstration portion of the driver's license
7 examination. The petition shall be filed with the clerk of the
8 district court in the district in which the arrest occurred and
9 shall be accompanied by the required filing fee for civil
10 actions. The petition shall include the following:

11 (1) A certified court abstract establishing that other
12 than the instant offense, the petitioner has no
13 pending traffic matters, outstanding fines,
14 outstanding court costs, and outstanding restitution;

15 (2) A certified statement from the director establishing
16 that the petitioner has complied with all
17 requirements, including payment of applicable fees,
18 undergone substance abuse assessment and treatment,
19 and surrendered motor vehicle registration and vehicle
20 number plates, if applicable; and

21 (3) A proposed order.



1 In determining whether the petitioner may be granted an ignition
2 interlock instruction permit, the district court shall consider
3 whether the requirements of paragraphs (1) through (3) are met
4 and may also consider any other factors, including but not
5 limited to the petitioner's criminal and traffic record after
6 receiving a lifetime license revocation, and based on the
7 foregoing, the district court shall determine whether an order
8 allowing the petitioner to apply to the director for an ignition
9 interlock instruction permit and requiring the director to
10 remove any stopper placed on the petitioner's motor vehicle
11 registration files pursuant to part III of chapter 291E, as
12 applicable, shall be issued; provided that the petitioner,
13 complies with applicable driver licensing requirements under
14 part VI of chapter 286, and proof of financial responsibility
15 under chapter 287. Upon submission of the order to the
16 director, the director shall remove any stopper placed on the
17 person's motor vehicle registration files and issue a certified
18 statement indicating eligibility for an ignition interlock
19 instruction permit.

20 (c) To apply for an ignition interlock instruction permit,
21 the person shall:



- 1 (1) Present the certified statement of eligibility for
- 2 ignition interlock instruction permit, as provided in
- 3 subsection (b), to the examiner of drivers;
- 4 (2) Pass the written portion of the driver's license
- 5 examination in accordance with section 286-108;
- 6 (3) Install an ignition interlock device on a vehicle to
- 7 be used for the driving demonstration portion of the
- 8 driver's license examination; and
- 9 (4) Submit to the director the following:
- 10 (A) Proof of passing the written portion of the
- 11 driver's license examination;
- 12 (B) Proof of installation of the ignition interlock
- 13 device;
- 14 (C) Proof of motor vehicle insurance; and
- 15 (D) Proof of a valid motor vehicle registration.

16 Upon receipt of proof of the requirements of paragraph (4), the
17 director shall issue an ignition interlock instruction permit
18 that allows the person to drive a category 1, 2, or 3 vehicle
19 under section 286-102(b) that is equipped with an ignition
20 interlock device for the period as provided in section 286-110;
21 provided that a holder of the ignition interlock instruction
22 permit for a category 3 vehicle shall be accompanied by a person



1 who is twenty-one years of age or older and licensed to operate
2 a category 3 vehicle. The licensed person shall occupy a
3 passenger seat beside the permit holder while the category 3
4 vehicle equipped with an ignition interlock device is being
5 operated. For the purposes of this section, "examiner of
6 drivers" shall have the same meaning as provided in section 286-
7 2.

8 (d) Upon showing the ignition interlock instruction permit
9 to the examiner of drivers, an applicant may take the driving
10 demonstration portion of the driver's license examination in
11 accordance with section 286-108. Upon successful completion of
12 the driving demonstration portion of the driver's license
13 examination, an applicant may apply to the director for an
14 ignition interlock permit pursuant to section 291E-44.5. If
15 granted, the ignition interlock permit shall expire as provided
16 in section 286-106 or upon the end of the revocation period,
17 whichever occurs first.

18 (e) After a minimum period of five years from the issuance
19 of an ignition interlock permit under subsection (d), a person
20 subject to a lifetime license revocation for operating a motor
21 vehicle while under the influence of an intoxicant may file a
22 petition in the district court to reinstate the person's



1 eligibility for license and privilege to operate a vehicle
2 without an ignition interlock device. The petition shall be
3 filed with the clerk of the district court in the district in
4 which the arrest occurred and shall be accompanied by the
5 required filing fee for civil actions. A copy of the petition
6 shall be served on the prosecuting attorney in the county in
7 which the petition is filed. The petition shall include the
8 following:

9 (1) A certified court abstract establishing that:

10 (A) The petitioner has no pending traffic matters,
11 outstanding fines, outstanding court costs, and
12 outstanding restitution; and

13 (B) The petitioner has not been convicted of any
14 violation of section 291E-66 during the five-year
15 period immediately preceding the petition;

16 (2) A certified statement from the director establishing
17 that the petitioner has complied with all
18 requirements, including payment of applicable fees,
19 undergone substance abuse assessment and treatment,
20 and surrendered motor vehicle registration and vehicle
21 number plates, if applicable;



- 1 (3) A certified statement from the director of
- 2 transportation establishing that:
- 3 (A) The petitioner has had an ignition interlock
- 4 device installed in a vehicle without a
- 5 cumulative break of more than thirty days during
- 6 the five years immediately preceding the
- 7 petition; and
- 8 (B) The petitioner has not attempted to operate a
- 9 vehicle with .04 or more grams of alcohol per two
- 10 hundred ten liters of breath during the two years
- 11 immediately preceding the petition;
- 12 (4) A certificate of service demonstrating the place,
- 13 time, and manner of service of the petition on the
- 14 prosecuting attorney;
- 15 (5) A certified record from the Hawaii Criminal Justice
- 16 Information System that shows the petitioner's current
- 17 criminal history record;
- 18 (6) A statement from the petitioner establishing where the
- 19 petitioner has resided since the ignition interlock
- 20 permit was issued;
- 21 (7) A statement from the petitioner as to whether the
- 22 petitioner has undergone substance abuse assessment



1 and treatment and the outcome of this assessment and
2 treatment; and
3 (8) A proposed order.
4 Within ten days of service of the petition, the prosecuting
5 attorney may submit a written request for a hearing on the
6 petition. The district court shall set a hearing and the
7 prosecuting attorney shall serve notice of the hearing upon the
8 petitioner at the petitioner's address shown on the petition and
9 in accordance with the applicable court rules pertaining to
10 service of civil process. The prosecuting attorney shall appear
11 at the hearing on the petition and may offer evidence and
12 argument in support of or against the granting of the petition.
13 If the requirements of paragraphs (1) through (8) are met and it
14 appears to the court that the petitioner no longer poses a
15 danger to other persons using streets or highways and is not
16 likely to operate a vehicle under the influence of an
17 intoxicant, the district court shall grant the petition and
18 issue an order declaring the person eligible for relicensing and
19 reregistration, if applicable. In making its decision, the
20 court, in addition to any other evidence, may consider the
21 petitioner's ignition interlock program driving records and
22 history. If the prosecuting attorney fails to submit a timely

1 request for a hearing, and the requirements of paragraphs (1)
2 through (8) are met, the district court shall grant the petition
3 and issue an order declaring the petitioner eligible for
4 relicensing and reregistration, if applicable. If the court
5 denies the petition, the person may file another petition under
6 this subsection no sooner than one year from the date of the
7 court order.

8 (f) Nothing in this section shall be interpreted to allow
9 repeat intoxicated driving to be treated as a first time offense
10 for purposes of relicensing."

11 SECTION 5. Section 286-102, Hawaii Revised Statutes, is
12 amended by amending subsection (e) to read as follows:

13 "(e) [~~It~~] Notwithstanding sections 291E-B and 291-44.5, in
14 addition to other qualifications and conditions by or pursuant
15 to this part, the right of an individual to hold a motor vehicle
16 operator's license or permit issued by the county is subject to
17 the requirements of section 576D-13.

18 Upon receipt of certification from the child support
19 enforcement agency pursuant to section 576D-13 that an obligor
20 or individual who owns or operates a motor vehicle is not in
21 compliance with an order of support as defined in section 576D-1
22 or has failed to comply with a subpoena or warrant relating to a



1 paternity or child support proceeding, the examiner of drivers
2 shall suspend the license and right to operate motor vehicles
3 and confiscate the license of the obligor. The examiner of
4 drivers shall not reinstate an obligor's or individual's license
5 until the child support enforcement agency, the office of child
6 support hearings, or the family court issues an authorization
7 that states the obligor or individual is in compliance with an
8 order of support or has complied with a subpoena or warrant
9 relating to a paternity or child support hearing.

10 The licensing authority may adopt rules pursuant to chapter
11 91 to implement and enforce the requirements of this section."

12 SECTION 6. Section 287-20, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) Whenever a driver's license has been suspended or
15 revoked:

16 (1) Pursuant to section 291E-65 or part III of chapter
17 291E, except as provided in section [~~291E-41(g)~~],
18 291E-41(f);

19 (2) Upon a conviction of any offense pursuant to law,
20 except where the conduct giving rise to the instant
21 offense is also a violation of part III of chapter
22 291E and a requirement to furnish and maintain proof



1 of financial responsibility has already been imposed
2 pursuant to that part; or

3 (3) In the case of minors, pursuant to part V of chapter
4 571,

5 the license shall not at any time thereafter be issued to the
6 person whose license has been suspended or revoked, nor shall
7 the person thereafter operate a motor vehicle, unless and until
8 the person has furnished and thereafter maintains proof of
9 financial responsibility; provided that this section shall not
10 apply to a license suspended or revoked pursuant to section
11 291E-61(b)(1) or 291E-64(b)(1), any conviction of a moving
12 violation, any administrative license suspension pursuant to
13 chapter 291A, or the first conviction within a five-year period
14 for driving without a valid motor vehicle insurance policy.

15 This subsection shall not apply to a suspension or
16 revocation of a provisional license under section 286-102.6(d)."

17 SECTION 7. Section 291E-1, Hawaii Revised Statutes, is
18 amended as follows:

19 1. By amending the definitions of "administrative
20 revocation", "alcohol enforcement contact", and "repeat
21 intoxicated driver" to read:



1 "Administrative revocation" means termination of the
2 respondent's[+

3 ~~(1) License]~~ license, and the privilege to operate a
4 vessel underway on or in the waters of the State
5 pursuant to part III[~~+~~and

6 ~~(2) Registration of any motor vehicle registered to a~~
7 ~~respondent found to be a repeat intoxicated driver],~~

8 but does not include any revocation imposed under section 291E-
9 61 or 291E-61.5.

10 "Alcohol enforcement contact" means:

11 (1) Any administrative revocation ordered pursuant to part
12 III;

13 (2) Any administrative revocation ordered pursuant to part
14 XIV of chapter 286, as that part was in effect on or
15 before December 31, 2001;

16 (3) Any suspension or revocation of any license [~~or motor~~
17 ~~vehicle registration, or both,~~] or any suspension or
18 revocation of a privilege to operate a vessel underway
19 imposed by this or any other state or federal
20 jurisdiction for refusing to submit to a test for
21 alcohol concentration;



1 (4) Any conviction in this State for operating or being in
2 physical control of a vehicle while having an unlawful
3 alcohol concentration or while under the influence of
4 alcohol; or

5 (5) Any conviction in any other state or federal
6 jurisdiction for an offense that is comparable to
7 operating or being in physical control of a vehicle
8 while having an unlawful alcohol concentration or
9 while under the influence of alcohol.

10 "Repeat intoxicated driver" means a person who previously:

11 (1) Has been convicted, during the five years preceding
12 the date of arrest, of one or more violations under:

13 (A) Section 291E-61 or 291E-61.5, as a result of
14 having consumed alcohol; or

15 (B) Section 291-4 or 291-4.4, as those sections were
16 in effect on or before December 31, 2001;

17 (2) Has been convicted, during the ten years preceding the
18 date of arrest, of three or more violations under:

19 (A) Section 291E-61 or 291E-61.5, as a result of
20 having consumed alcohol; or

21 (B) Section 291-4 or 291-4.4, as those sections were
22 in effect on or before December 31, 2001; or



1 (3) Has had one prior alcohol enforcement contact or drug
2 enforcement contact during the five years preceding
3 the date of arrest, two prior alcohol enforcement
4 contacts or drug enforcement contact during the
5 [seven] five years preceding the date of arrest, or
6 three or more prior alcohol enforcement contacts or
7 drug enforcement contact during the ten years
8 preceding the date of arrest."

9 2. By repealing the definitions of "temporary number
10 plates" and "temporary vehicle registration".

11 [~~"Temporary number plates" refers to the temporary number~~
12 ~~plates given, along with the temporary vehicle registration, to~~
13 ~~a respondent pursuant to section 291E-33, but does not include a~~
14 ~~temporary number plate attached to a new vehicle pursuant to~~
15 ~~sections 249-7.5 and 286-53.~~

16 ~~"Temporary vehicle registration" means the portion of the~~
17 ~~notice of administrative revocation that, when completed by the~~
18 ~~arresting law enforcement officer, permits the respondent to~~
19 ~~drive a vehicle registered in the name of the respondent for~~
20 ~~thirty days or until the time established by the director under~~
21 ~~part III."]~~



1 SECTION 8. Section 291E-6, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) The vendor selected for installation and maintenance
4 of ignition interlock devices pursuant to chapter 291E shall be
5 audited annually by the director of transportation pursuant to
6 this section and the rules adopted thereunder. The director of of
7 transportation may require the vendor to pay for all or part of
8 the costs incurred in conducting the audit."

9 SECTION 9. Section 291E-31, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§291E-31 Notice of administrative revocation; effect.** As
12 used in this part, the notice of administrative revocation:

13 (1) Establishes that the respondent's license and
14 privilege to operate a vehicle in the State or on or
15 in the waters of the State shall be terminated:

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

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



1 (C) Such later date as is established by the director
2 under section 291E-38,
3 if the director administratively revokes the
4 respondent's license and privilege;

5 ~~[-2] Establishes that the registration of any motor vehicle~~
6 ~~registered to a respondent who is a repeat intoxicated~~
7 ~~driver shall be terminated thirty days after the date~~
8 ~~of an arrest pursuant to section 291E-33(e);~~

9 ~~[-3]~~ (2) Establishes the date on which administrative
10 revocation proceedings against the respondent were
11 initiated;

12 ~~[-4]~~ (3) Serves as a temporary permit, if applicable, to
13 operate a vehicle as provided in section 291E-33; and

14 ~~[-5]~~ (4) Notifies the respondent that the respondent shall
15 obtain an ignition interlock permit and keep an
16 ignition interlock device installed and operating in
17 any vehicle the respondent operates during the
18 revocation period if the respondent had a valid
19 license at the time of the arrest."

20 SECTION 10. Section 291E-33, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§291E-33 Probable cause determination; issuance of notice
2 of administrative revocation; procedures. (a) Whenever a
3 person is arrested for a violation of section 291E-61 or 291E-
4 61.5 on a determination by the arresting law enforcement officer
5 that:

6 (1) There was reasonable suspicion to stop the vehicle or
7 the vehicle was stopped at an intoxicant control
8 roadblock established and operated in compliance with
9 sections 291E-19 and 291E-20; and

10 (2) There was probable cause to believe that the person
11 was operating the vehicle while under the influence of
12 an intoxicant;

13 the law enforcement officer [~~immediately~~] shall take possession
14 of any license held by the person and request the person to take
15 a test for alcohol concentration, in the case of an alcohol
16 related offense, or a test for drug content in the blood or
17 urine, in the case of a drug related offense. The law
18 enforcement officer shall inform the person that, in the case of
19 an alcohol related offense, the person shall elect to take a
20 breath test, a blood test, or both, pursuant to section 291E-11,
21 but that the person may refuse to submit to testing under this
22 chapter. In the case of a drug related offense, the person



1 shall elect to take a blood test, a urine test, or both,
2 pursuant to section 291E-11, after being informed that the
3 person may refuse to submit to testing under this chapter.

4 (b) When applicable under section 291E-15, the law
5 enforcement officer also shall:

6 (1) Inform the person of the sanctions under section
7 291E-41, including the sanction for refusing to take a
8 breath, blood, or urine test, if applicable; and

9 (2) Ask the person if the person still refuses to submit
10 to a breath, blood, or urine test, upon the law
11 enforcement officer's determination that, after the
12 person has been informed by a law enforcement officer
13 that the person may refuse to submit to testing, the
14 person under arrest has refused to submit to a breath,
15 blood, or urine test.

16 [~~Thereafter,~~] (c) After taking action pursuant to subsections

17 (a) and (b), as applicable, the law enforcement officer shall

18 complete and issue to the person a notice of administrative

19 revocation and shall indicate thereon whether the notice shall

20 serve as a temporary permit. The notice shall serve as a

21 temporary permit, unless, at the time of arrest: the person was

22 unlicensed; the person's license or privilege to operate a



1 vehicle was revoked or suspended; or the person had no license
2 in the person's possession.

3 ~~[-(b)-]~~ (d) Whenever a law enforcement officer determines
4 that, as the result of a blood or urine test performed pursuant
5 to section 291E-21, there is probable cause to believe that a
6 person being treated in a hospital or medical facility has
7 violated section 291E-61 or 291E-61.5, the law enforcement
8 officer immediately shall take possession of any license held by
9 the person and shall complete and issue to the person a notice
10 of administrative revocation and indicate thereon whether the
11 notice shall serve as a temporary permit. The notice shall
12 serve as a temporary permit unless, at the time the notice was
13 issued: the person was unlicensed; the person's license or
14 privilege to operate a vehicle was revoked or suspended; or the
15 person had no license in the person's possession.

16 ~~[-(c)- Whenever a respondent under this section is a repeat~~
17 ~~intoxicated driver, the arresting law enforcement officer shall~~
18 ~~take possession of the motor vehicle registration and, if the~~
19 ~~motor vehicle being driven by the respondent is registered to~~
20 ~~the respondent, remove the number plates and issue a temporary~~
21 ~~motor vehicle registration and temporary number plates for the~~
22 ~~motor vehicle. No temporary motor vehicle registration or~~



1 ~~temporary number plates shall be issued if the respondent's~~
2 ~~registration has expired or been revoked. The applicable police~~
3 ~~department, upon determining that the respondent is a repeat~~
4 ~~intoxicated driver, shall notify the director of the appropriate~~
5 ~~county agency to enter a stopper on the motor vehicle~~
6 ~~registration files to prevent the respondent from conducting any~~
7 ~~motor vehicle transactions, except as permitted under this~~
8 ~~part.] "~~

9 SECTION 11. Section 291E-34, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending subsections (b) through (e) to read:

12 "(b) The notice, when completed by the law enforcement
13 officer and issued to the respondent, shall contain at a minimum
14 the following information relating to the incident that gives
15 rise to the issuance of the notice of administrative revocation:

- 16 (1) Information identifying the respondent;
17 (2) The specific violation for which the respondent was
18 arrested;
19 (3) The date issued and the date the administrative
20 revocation is scheduled to go into effect;



1 (4) The expiration date of the temporary permit [~~and the~~
2 ~~temporary motor vehicle registration and temporary~~
3 ~~number plates if applicable~~]; and

4 (5) That the issuance of the notice of administrative
5 revocation will be administratively reviewed.

6 (c) The notice shall provide, at a minimum, the following
7 information relating to the administrative review:

8 (1) That the review is automatic;

9 (2) That the respondent, within three days of the issuance
10 of the notice of administrative revocation in the case
11 of an alcohol related offense and within seventeen
12 days of the issuance of the notice of administrative
13 revocation in the case of a drug related offense, may
14 submit written information demonstrating why the
15 respondent's license and privilege to operate a
16 vehicle [~~and motor vehicle registration if~~
17 ~~applicable,~~] should not be administratively revoked;

18 (3) The address or location where the respondent may
19 submit the information;

20 (4) That the respondent is not entitled to be present or
21 represented at the administrative review; and



1 (5) That the administrative review decision shall be
2 mailed to the respondent:

3 (A) No later than eight days after the date of the
4 issuance of the notice of administrative
5 revocation in the case of an alcohol related
6 offense; and

7 (B) No later than twenty-two days after the date of
8 the issuance of the notice of administrative
9 revocation in the case of a drug related offense.

10 (d) The notice shall state that, if the respondent's
11 license and privilege to operate a vehicle[, ~~and motor vehicle~~
12 ~~registration if applicable, are]~~ is not administratively revoked
13 after the review, the respondent's license[, ~~and if applicable,~~
14 ~~motor vehicle registration and any number plates taken into~~
15 ~~custody,~~] shall be returned, unless a subsequent alcohol or drug
16 enforcement contact has occurred, along with a certified
17 statement that the administrative revocation proceedings have
18 been terminated.

19 (e) The notice shall state that, if the respondent's
20 license and privilege to operate a vehicle[, ~~and motor vehicle~~
21 ~~registration if applicable, are]~~ is administratively revoked
22 after the review, a decision shall be mailed to the respondent,



1 or to the parent or guardian of the respondent if the respondent
2 is under the age of eighteen, that shall contain, at a minimum,
3 the following information:

4 (1) The reasons why the respondent's license and privilege
5 to operate a vehicle[, ~~and motor vehicle registration~~
6 ~~if applicable, were~~] is administratively revoked;

7 (2) That the respondent may request the director, within
8 six days of the date the decision is mailed, to
9 schedule an administrative hearing to review the
10 administrative revocation;

11 (3) That, if the respondent's request for an
12 administrative hearing is received by the director
13 within six days of the date the decision was mailed,
14 the hearing shall be scheduled to commence:

15 (A) No later than twenty-five days after the date of
16 the issuance of the notice of administrative
17 revocation in the case of an alcohol related
18 offense; and

19 (B) No later than thirty-nine days after the date of
20 the issuance of the notice of administrative
21 revocation in the case of a drug related offense;

22 (4) The procedure to request an administrative hearing;



- 1 (5) That failure to request an administrative hearing
2 within the time provided shall cause the
3 administrative revocation to take effect for the
4 period and under the conditions established by the
5 director in the decision;
- 6 (6) That the respondent may regain the right to a hearing
7 by requesting the director, within sixty days after
8 the issuance of the notice of administrative
9 revocation, to schedule a hearing;
- 10 (7) That the director shall schedule the hearing to
11 commence no later than thirty days after a request
12 under paragraph (6) is received, but that, except as
13 provided in section [~~291E-38(k)~~], 291E-38(j), the
14 temporary permit[, and temporary motor vehicle
15 registration and temporary number plates if
16 applicable,] shall not be extended if the respondent
17 fails to request an administrative hearing within the
18 initial six-day period provided for that purpose;
- 19 (8) That failure to attend the hearing shall cause the
20 administrative revocation to take effect for the
21 period and under the conditions indicated;



1 (9) The duration of the administrative revocation and
2 other conditions that may be imposed, including:
3 referral to the driver's education program for an
4 assessment of the respondent's substance abuse or
5 dependence and the need for treatment;

6 [~~(10)~~ That, pursuant to section 291E 48, the director may
7 grant a special motor vehicle registration to a
8 qualified household member or to a co-owner of any
9 motor vehicle owned by the respondent, upon a
10 determination that the person is completely dependent
11 on the motor vehicle for the necessities of life,
12 provided that the special motor vehicle registration
13 shall not be valid for use by the respondent,] and

14 [~~(11)~~] (10) That the respondent shall obtain an ignition
15 interlock permit in order to operate a vehicle during
16 the revocation period if the respondent had a valid
17 license at the time of the arrest."

18 2. By amending subsections (g) and (h) to read:

19 "(g) The notice shall state that, if the administrative
20 revocation is reversed after the hearing, the respondent's
21 license[, and if applicable, motor vehicle registration and any
22 number plates taken into custody,] shall be returned, along with



1 a certified statement that the administrative revocation
2 proceedings have been terminated.

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

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

9 (2) The duration of the administrative revocation;

10 ~~[(3) If applicable, the date by which any outstanding motor~~
11 ~~vehicle number plates issued to the respondent must be~~
12 ~~surrendered to the director;~~

13 ~~-(4) If applicable, that failure to surrender any motor~~
14 ~~vehicle number plates as required is a misdemeanor;~~

15 ~~-(5)]~~ (3) Other conditions that may be imposed by law,
16 including the use of an ignition interlock device; and

17 ~~[-(6)]~~ (4) The right to obtain judicial review."

18 SECTION 12. Section 291E-35, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§291E-35 Immediate restoration of license [and motor**
21 **vehicle registration]**. (a) In cases involving an alcohol

22 related offense, if a test conducted in accordance with part II



1 and section 321-161 and the rules adopted thereunder shows that
2 a respondent had an alcohol concentration less than .08, the
3 director or the arresting law enforcement agency immediately
4 shall return the respondent's license[, and if applicable, motor
5 vehicle registration and any number plates taken into custody,]
6 along with a certified statement that administrative revocation
7 proceedings have been terminated with prejudice.

8 (b) In cases involving a drug related offense, if a test
9 conducted in accordance with part II and section 321-161 and the
10 rules adopted thereunder fails to show the presence, in the
11 respondent's blood or urine, of any drug that is capable of
12 impairing the respondent's ability to operate a vehicle in a
13 careful and prudent manner, the director or the arresting law
14 enforcement agency immediately shall return the respondent's
15 license[, and if applicable, motor vehicle registration and any
16 number plates taken into custody,] along with a certified
17 statement that administrative revocation proceedings have been
18 terminated with prejudice."

19 SECTION 13. Section 291E-36, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "§291E-36 Documents required to be submitted for
22 administrative review; sworn statements. (a) Whenever a



1 respondent has been arrested for a violation of section 291E-61
2 or 291E-61.5 and submits to a test that establishes: the
3 respondent's alcohol concentration was .08 or more; the
4 presence, in the respondent's blood or urine, of any drug that
5 is capable of impairing the respondent's ability to operate a
6 vehicle in a careful and prudent manner; or whenever a
7 respondent has been involved in a collision resulting in injury
8 or death and a blood or urine test performed pursuant to section
9 291E-21 establishes that the respondent's alcohol concentration
10 was .08 or more or establishes the presence in the respondent's
11 blood or urine of any drug that is capable of impairing the
12 respondent's ability to operate a vehicle in a careful and
13 prudent manner, the following shall be forwarded immediately to
14 the director:

- 15 (1) A copy of the arrest report or the report of the law
16 enforcement officer who issued the notice of
17 administrative revocation to the person involved in a
18 collision resulting in injury or death and the sworn
19 statement of the arresting law enforcement officer or
20 the officer who issued the notice of administrative
21 revocation, stating facts that establish that:



- 1 (A) There was reasonable suspicion to stop the
- 2 vehicle, the vehicle was stopped at an intoxicant
- 3 control roadblock established and operated in
- 4 compliance with sections 291E-19 and 291E-20, or
- 5 the respondent was tested pursuant to section
- 6 291E-21;
- 7 (B) There was probable cause to believe that the
- 8 respondent had been operating the vehicle while
- 9 under the influence of an intoxicant; and
- 10 (C) The respondent agreed to be tested or the person
- 11 was tested pursuant to section 291E-21;
- 12 (2) In a case involving an alcohol related offense, the
- 13 sworn statement of the person responsible for
- 14 maintenance of the testing equipment, stating facts
- 15 that establish that, pursuant to section 321-161 and
- 16 rules adopted thereunder:
- 17 (A) The equipment used to conduct the test was
- 18 approved for use as an alcohol testing device in
- 19 this State;
- 20 (B) The person had been trained and at the time the
- 21 test was conducted was certified and capable of
- 22 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 (3) In a case involving an alcohol related offense, the
5 sworn 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) The person was trained and at the time the test
9 was conducted was certified and capable of
10 operating the testing 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 that the respondent's alcohol
16 concentration was at, or above, the prohibited
17 level; and
- 18 (D) The person whose breath or blood was tested is
19 the respondent;
- 20 (4) In a case involving a drug related offense, the sworn
21 statement of the person responsible for maintenance of
22 the testing equipment, stating facts that establish



1 that, pursuant to section 321-161 and rules adopted
2 thereunder:

3 (A) The equipment used to conduct the test was
4 approved for use in drug testing;

5 (B) The person conducting the test had been trained
6 and, at the time of the test, was certified and
7 capable of maintaining the testing equipment; and

8 (C) The testing equipment used had been properly
9 maintained and was in good working condition when
10 the test was conducted;

11 (5) In a case involving a drug related offense, the sworn
12 statement of the person who conducted the test,
13 stating facts that establish that, pursuant to section
14 321-161 and rules adopted thereunder:

15 (A) At the time the test was conducted, the person
16 was trained and capable of operating the testing
17 equipment;

18 (B) The person followed the procedures established
19 for conducting the test;

20 (C) The equipment used to conduct the test functioned
21 in accordance with operating procedures and
22 indicated the presence of one or more drugs or



1 their metabolites in the respondent's blood or
2 urine; and
3 (D) The person whose blood or urine was tested is the
4 respondent;

5 (6) A copy of the notice of administrative revocation
6 issued by the law enforcement officer to the
7 respondent;

8 (7) Any license[, ~~and motor vehicle registration and~~
9 ~~number plates, if applicable,~~] taken into possession
10 by the law enforcement officer; and

11 (8) A listing of any prior alcohol or drug enforcement
12 contacts involving the respondent.

13 (b) Whenever a respondent has been arrested for a
14 violation of section 291E-61 or 291E-61.5 and refuses to submit
15 to a test to determine alcohol concentration or drug content in
16 the blood or urine, the following shall be forwarded immediately
17 to the director:

18 (1) A copy of the arrest report and the sworn statement of
19 the arresting law enforcement officer, stating facts
20 that establish that:

21 (A) There was reasonable suspicion to stop the
22 vehicle or the vehicle was stopped at an



- 1 intoxicant control roadblock established and
2 operated in compliance with sections 291E-19 and
3 291E-20;
- 4 (B) There was probable cause to believe that the
5 respondent had been operating the vehicle while
6 under the influence of an intoxicant;
- 7 (C) The respondent was informed of:
- 8 (i) The sanctions of section 291E-41;
- 9 (ii) The possibility that criminal charges may be
10 filed; and
- 11 (iii) The probable consequences of refusing to be
12 tested for alcohol concentration or drug
13 content in the blood or urine; and
- 14 (D) The respondent refused to be tested;
- 15 (2) A copy of the notice of administrative revocation
16 issued to the respondent;
- 17 (3) Any [~~driver's~~] license[, ~~and motor vehicle~~
18 ~~registration and number plates if applicable,~~] taken
19 into possession; and
- 20 (4) A listing of all alcohol and drug enforcement contacts
21 involving the respondent."



1 SECTION 14. Section 291E-37, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§291E-37 Administrative review; procedures; decision.

4 (a) The director automatically shall review the issuance of a
5 notice of administrative revocation and shall issue a written
6 decision administratively revoking the license and privilege to
7 operate a vehicle[, ~~and motor vehicle registration if~~
8 ~~applicable,~~] 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) Eight days after the date the notice was issued in a
13 case involving an alcohol related offense; or

14 (2) Twenty-two 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[, ~~and motor vehicle registration~~
19 ~~if applicable,~~] should not be administratively revoked and,
20 within three days of receiving the notice of administrative
21 revocation, as provided in section 291E-33, shall submit any
22 written information, either by mail or in person, to the



1 director's office or to any office or address designated by the
2 director for that purpose.

3 (c) In conducting the administrative review, the director
4 shall consider:

5 (1) Any sworn or unsworn written statement or other
6 written evidence provided by the respondent;

7 (2) The breath, blood, or urine test results, if any; and

8 (3) The sworn statement of any law enforcement officer or
9 other person or other evidence or information required
10 by section 291E-36.

11 (d) The director shall administratively revoke the
12 respondent's license and privilege to operate a vehicle if the
13 director determines that:

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

19 (2) There existed probable cause to believe that the
20 respondent operated the vehicle while under the
21 influence of an intoxicant; and

22 (3) The evidence proves by a preponderance that:



1 (A) The respondent operated the vehicle while under
2 the influence of an intoxicant; or

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

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

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

13 ~~[(e) The director shall administratively revoke the~~
14 ~~registration of any vehicle owned or registered to the~~
15 ~~respondent and take custody of any number plates issued to the~~
16 ~~respondent if the director determines that the respondent is a~~
17 ~~repeat intoxicated driver and that:~~

18 ~~(1) There existed reasonable suspicion to stop the~~
19 ~~vehicle, the vehicle was stopped at an intoxicant~~
20 ~~control roadblock established and operated in~~
21 ~~compliance with sections 291E 19 and 291E 20, or the~~
22 ~~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 ~~(f)]~~ (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 ~~and if applicable, motor vehicle registration and any number~~
21 ~~plates taken into custody,~~] along with a certified statement
22 that administrative revocation proceedings have been terminated.



1 [~~(g)~~] (f) If the director administratively revokes the
2 respondent's license and privilege to operate a vehicle, [~~and~~
3 ~~motor vehicle registration if applicable,~~] the director shall
4 mail a written review decision to the respondent, or to the
5 parent or guardian of the respondent if the respondent is under
6 the age of eighteen. The written review decision shall:

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

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

9 date the decision is mailed to request an

10 administrative hearing to review the director's

11 decision;

12 (3) Explain the procedure by which to request an

13 administrative hearing;

14 (4) Be accompanied by a form, postage prepaid, that the

15 respondent may fill out and mail in order to request

16 an administrative hearing;

17 (5) Inform the respondent of the right to review and copy

18 all documents considered at the review, including the

19 arrest report and the sworn statements of law

20 enforcement officers or other persons, prior to the

21 hearing; and



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

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

20 SECTION 15. Section 291E-38, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§291E-38 Administrative hearing; procedure; decision.**

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

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

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

17 The director may continue the hearing only as provided in
18 subsection [~~(k)~~] (j).

19 (b) The hearing shall be held at a place designated by the
20 director, as close to the location where the notice of
21 administrative revocation was issued as practical.



1 (c) The respondent may be represented by counsel and, if
2 the respondent is under the age of eighteen, must be accompanied
3 by a parent or guardian.

4 (d) The director shall conduct the hearing and have
5 authority to:

- 6 (1) Administer oaths and affirmations;
- 7 (2) Examine witnesses and take testimony;
- 8 (3) Receive and determine the relevance of evidence;
- 9 (4) Issue subpoenas;
- 10 (5) Regulate the course and conduct of the hearing;
- 11 (6) Impose up to the maximum license revocation period as
12 specified under section [~~291E-41(b)7~~] 291E-41(b)(4);
- 13 and
- 14 (7) Make a final ruling.

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

- 17 (1) There existed reasonable suspicion to stop the
18 vehicle, the vehicle was stopped at an intoxicant
19 control roadblock established and operated in
20 compliance with sections 291E-19 and 291E-20, or the
21 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 ~~[(f) In addition to subsection (c), the director shall~~
18 ~~affirm the administrative revocation of the registration of any~~
19 ~~motor vehicle owned by or registered to the respondent only if~~
20 ~~the director determines that the respondent is a repeat~~
21 ~~intoxicated driver. If the director affirms the administrative~~
22 ~~revocation pursuant to this subsection, the director shall order~~



1 ~~the respondent to surrender the number plates and motor vehicle~~
2 ~~registration of any motor vehicle owned by or registered to the~~
3 ~~respondent. The director may destroy any number plates taken~~
4 ~~into custody.~~

5 ~~(g)~~ (f) The respondent's prior alcohol and drug
6 enforcement contacts shall be entered into evidence.

7 ~~(h)~~ (g) The sworn statements provided in section 291E-36
8 shall be admitted into evidence. The director shall consider
9 the sworn statements in the absence of the law enforcement
10 officer or other person. Upon written notice to the director,
11 no later than five days prior to the hearing, that the
12 respondent wishes to examine a law enforcement officer or other
13 person who made a sworn statement, the director shall issue a
14 subpoena for the officer or other person to appear at the
15 hearing. Personal service upon the law enforcement officer or
16 other person who made a sworn statement shall be made no later
17 than forty-eight hours prior to the hearing time. If the
18 officer or other person cannot appear, the officer or other
19 person at the discretion of the director, may testify by
20 telephone.

21 ~~(i)~~ (h) The hearing shall be recorded in a manner to be
22 determined by the director.



1 ~~[(j)]~~ (i) The director's decision shall be rendered in
2 writing and mailed to the respondent, or to the parent or
3 guardian of the respondent if the respondent is under the age of
4 eighteen, no later than five days after the hearing is
5 concluded. If the decision is to reverse the administrative
6 revocation, the director shall return the respondent's license,
7 ~~[and if applicable, motor vehicle registration and any number~~
8 ~~plates taken into custody,]~~ along with a certified statement
9 that administrative revocation proceedings have been terminated.
10 If the decision sustains the administrative revocation, the
11 director shall mail to the respondent a written decision
12 indicating the duration of the administrative revocation and any
13 other conditions or restrictions as may be imposed pursuant to
14 section 291E-41.

15 ~~[(k)]~~ (j) For good cause shown, the director may grant a
16 continuance either of the commencement of the hearing or of a
17 hearing that has already commenced. If a continuance is granted
18 at the request of the director, the director shall extend the
19 validity of the temporary permit, ~~[and temporary motor vehicle~~
20 ~~registration and temporary number plates if applicable,]~~ unless
21 otherwise prohibited, for a period not to exceed the period of
22 the continuance. If a continuance is granted at the request of



1 the respondent, the director shall not extend the validity of
2 the temporary permit[, ~~or temporary motor vehicle registration~~
3 ~~and temporary number plates, if applicable~~]. For purposes of
4 this section, a continuance means a delay in the commencement of
5 the hearing or an interruption of a hearing that has commenced,
6 other than for recesses during the day or at the end of the day
7 or week. The absence from the hearing of a law enforcement
8 officer or other person, upon whom personal service of a
9 subpoena has been made as set forth in subsection [~~(h)~~], (g),
10 constitutes good cause for a continuance.

11 [~~(l)~~] (k) The director may grant a special motor vehicle
12 registration, pursuant to section 291E-48, to a qualified
13 household member or a co-owner of any motor vehicle upon
14 determination that:

- 15 (1) The person is completely dependent on the motor
16 vehicle for the necessities of life; and
17 (2) At the time of the application for a special motor
18 vehicle registration, the respondent does not have a
19 valid ignition interlock permit.

20 The special motor vehicle registration shall not be valid for
21 use by the respondent.



1 ~~[-(m)]~~ (1) If the respondent fails to appear at the
2 hearing, or if a respondent under the age of eighteen fails to
3 appear with a parent or guardian, administrative revocation
4 shall take effect for the period and under the conditions
5 established by the director in the administrative review
6 decision issued by the director under section 291E-37."

7 SECTION 16. Section 291E-39, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§291E-39 Fees and costs.** The director may assess and
10 collect a \$30 fee from the respondent to cover the costs of
11 processing the respondent's request for an administrative
12 hearing. These costs include but shall not be limited to: the
13 cost of photocopying documents; conditional license permits,
14 temporary permits, [~~temporary motor vehicle registrations,~~
15 ~~temporary number plates,~~] and relicensing forms; interpreter
16 services; and other similar costs; provided that the costs of
17 issuing subpoenas for witnesses, including mileage fees, shall
18 be borne by the party requesting the subpoena. The director may
19 waive the fee in the case of an indigent respondent, upon an
20 appropriate inquiry into the financial circumstances of the
21 respondent seeking the waiver and an affidavit or a certificate



1 signed by the respondent demonstrating the respondent's
2 financial inability to pay the fee."

3 SECTION 17. Section 291E-41, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§291E-41 Effective date, conditions, and period of**
6 **administrative revocation; criteria.** (a) Unless an
7 administrative revocation is reversed or the temporary permit [~~7~~
8 ~~and temporary motor vehicle registration and temporary number~~
9 ~~plates, if applicable, are]~~ 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 and privilege to
13 operate a vehicle shall be restored under any circumstances
14 during the administrative revocation period. Upon completion of
15 the administrative revocation period, the respondent may reapply
16 and be reissued a license pursuant to section 291E-45.

17 (b) Except as provided in paragraph (5) and in section
18 291E-44.5, the respondent shall keep an ignition interlock
19 device installed and operating in any vehicle the respondent
20 operates during the revocation period. Except as provided in
21 section 291E-5, installation and maintenance of the ignition
22 interlock device shall be at the respondent's [~~own~~] expense.



1 The periods of administrative revocation, with respect to a
2 license and privilege to operate a vehicle, [~~and motor vehicle~~
3 ~~registration if applicable,~~] that shall be imposed under this
4 part are as follows:

5 (1) A one year revocation of license and privilege to
6 operate a vehicle, if the respondent's record shows no
7 prior alcohol enforcement contact or drug enforcement
8 contact during the five years preceding the date the
9 notice of administrative revocation was issued;

10 (2) An eighteen month revocation of license and privilege
11 to operate a vehicle [~~and of the registration of any~~
12 ~~motor vehicle registered to the respondent~~], if the
13 respondent's record shows one prior alcohol
14 enforcement contact or drug enforcement contact during
15 the five years preceding the date the notice of
16 administrative revocation was issued;

17 (3) A two-year revocation of license and privilege to
18 operate a vehicle [~~and of the registration of any~~
19 ~~motor vehicle registered to the respondent~~], if the
20 respondent's record shows two prior alcohol
21 enforcement contacts or drug enforcement contacts



- 1 during the five years preceding the date the notice of
2 administrative revocation was issued;
- 3 (4) A minimum of five years up to a maximum of ten years
4 revocation of license and privilege to operate a
5 vehicle [~~and of the registration of any motor vehicle~~
6 ~~registered to the respondent~~], if the respondent's
7 record shows three or more prior alcohol enforcement
8 contacts or drug enforcement contacts during the ten
9 years preceding the date the notice of administrative
10 revocation was issued;
- 11 (5) For respondents under the age of eighteen years who
12 were arrested for a violation of section 291E-61 or
13 291E-61.5, revocation of license and privilege to
14 operate a vehicle for the appropriate revocation
15 period provided in paragraphs (1) to (4) or in
16 subsection [~~(d)~~] (c); provided that the respondent
17 shall be prohibited from driving during the period
18 preceding the respondent's eighteenth birthday and
19 shall thereafter be subject to the ignition interlock
20 requirement of this subsection for the balance of the
21 revocation period; or



1 (6) For respondents, other than those excepted pursuant to
2 section [~~291E-44.5(b)~~], 291E-44.5(c), who do not
3 install an ignition interlock device in any vehicle
4 the respondent operates during the revocation period,
5 revocation of license and privilege to operate a
6 vehicle for the period of revocation provided in
7 paragraphs (1) to (5) or in subsection [~~(d)~~] (c);
8 provided that:

9 (A) The respondent shall be absolutely prohibited
10 from driving during the revocation period and
11 subject to the penalties provided by section
12 291E-62 if the respondent drives during the
13 revocation period; and

14 (B) The director shall not issue an ignition
15 interlock permit to the respondent pursuant to
16 section 291E-44.5;

17 provided that when more than one administrative revocation,
18 suspension, or conviction arises out of the same arrest, it
19 shall be counted as only one prior alcohol enforcement contact
20 or drug enforcement contact, whichever revocation, suspension,
21 or conviction occurs later.



1 ~~[(e) Whenever a motor vehicle registration is revoked~~
2 ~~under this part, the director shall cause the revocation to be~~
3 ~~entered electronically into the motor vehicle registration file~~
4 ~~of the respondent.~~

5 ~~(d)]~~ (c) If a respondent has refused to be tested after
6 being informed:

7 (1) That the person may refuse to submit to testing in
8 compliance with section 291E-11; and

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

13 the revocation imposed under subsection (b) (1), (2), (3), or (4)
14 shall be for a period of two years, three years, four years,
15 ~~[and]~~ or ten years, respectively.

16 ~~[(e)]~~ (d) Whenever a license and privilege to operate a
17 vehicle is administratively revoked under this part, the
18 respondent shall be referred to the driver's education program
19 for an assessment, by a certified substance abuse counselor, of
20 the respondent's substance abuse or dependence and the need for
21 treatment. The counselor shall submit a report with
22 recommendations to the director. If the counselor's assessment



1 establishes that the extent of the respondent's substance abuse
2 or dependence warrants treatment, the director shall so order.
3 All costs for assessment and treatment shall be paid by the
4 respondent.

5 ~~[(f)]~~ (e) Alcohol and drug enforcement contacts that
6 occurred prior to January 1, 2002, shall be counted in
7 determining the administrative revocation period.

8 ~~[(g)]~~ (f) The requirement to provide proof of financial
9 responsibility pursuant to section 287-20 shall not be based
10 upon a revocation under subsection (b) (1)."

11 SECTION 18. Section 291E-44.5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§291E-44.5 Ignition interlock permits; driving for**
14 **employment.** (a) ~~[(1)]~~ Except as provided in ~~[paragraph (2)]~~,
15 subsection (b), upon proof that the respondent has installed an
16 ignition interlock device in ~~[the respondent's vehicle]~~ any
17 vehicle the respondent operates and obtained motor vehicle
18 insurance or self-insurance that complies with the requirements
19 of section 431:10C-104 or 431:10C-105, the director shall issue
20 an ignition interlock permit that will allow the respondent to
21 drive a vehicle equipped with an ignition interlock device
22 during the revocation period~~[or]~~.



1 ~~[(2) Notwithstanding any other law to the contrary,]~~ (b)
2 Except as provided in sections 286-A and 291E-B, the director
3 shall not issue an ignition interlock permit to:

4 ~~[(A)]~~ (1) A respondent whose license is expired, suspended,
5 or revoked as a result of action other than the
6 instant revocation;

7 ~~[(B)]~~ (2) A respondent who does not hold a valid license at
8 the time of arrest for the violation of section 291E-
9 61; ~~[or]~~

10 (3) A respondent who holds a license that is a learner's
11 permit or instruction permit; or

12 ~~[(C)]~~ (4) A respondent who holds either a category 4
13 license under section 286-102(b) or a commercial
14 driver's license under section 286-239(b) unless the
15 ignition interlock permit is restricted to a category
16 1, 2, or 3 license under section 286-102(b).

17 ~~[(b)(1)]~~ (c) Except as provided in subsection ~~[(a)(2)]~~
18 (b), the director may issue a separate permit authorizing a
19 respondent to operate a vehicle owned by the respondent's
20 employer during the period of revocation without installation of
21 an ignition interlock device if the respondent is gainfully
22 employed in a position that requires driving and the respondent



1 will be discharged if prohibited from driving a vehicle not
2 equipped with an ignition interlock device.

3 ~~[(2)]~~ (d) A request made pursuant to ~~[paragraph (1)]~~
4 subsection (c) shall be accompanied by:

5 ~~[(A)]~~ (1) A sworn statement from the respondent containing
6 facts establishing that the respondent currently is
7 employed in a position that requires driving and that
8 the respondent will be discharged if prohibited from
9 driving a vehicle not equipped with an ignition
10 interlock device; and

11 ~~[(B)]~~ (2) A sworn statement from the respondent's employer
12 establishing that the employer will, in fact,
13 discharge the respondent if the respondent is
14 prohibited from driving a vehicle not equipped with an
15 ignition interlock device and identifying the specific
16 vehicle or vehicles and hours of the day the
17 respondent will drive, not to exceed twelve hours per
18 day, for purposes of employment.

19 ~~[(e)]~~ (e) A permit issued pursuant to subsection ~~[(b)]~~ (c)
20 shall include restrictions allowing the respondent to drive:



- 1 (1) Only during specified hours of employment, not to
2 exceed twelve hours per day, and only for activities
3 solely within the scope of the employment;
- 4 (2) Only the [~~vehiele~~] vehicles specified; and
- 5 (3) Only if the permit is kept in the respondent's
6 possession while operating the employer's vehicle.

7 In addition, the director may impose other appropriate
8 restrictions."

9 SECTION 19. Section 291E-46, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "~~[+]~~[S291E-46] **Computation of time.** The time in which
12 any act provided in this part is to be done is computed by
13 excluding the first day and including the last, unless the last
14 day is a Saturday, Sunday, or state holiday, and then it also is
15 excluded[-]; provided that if the last day for the mailing of
16 decisions under sections 291E-37(a) and 291E-38(i) is a federal
17 holiday, it also is excluded."

18 SECTION 20. Section 291E-48, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) Anytime after the effective date of revocation or
21 after the administrative hearing decision is mailed pursuant to
22 section [~~291E-38(j)~~] 291E-38(i), a qualified household member



1 or co-owner of a motor vehicle with a respondent who has had a
2 motor vehicle registration revoked under this part may submit a
3 sworn statement to the director requesting a special motor
4 vehicle registration. The director may grant the request upon
5 determining that the following conditions have been met:

- 6 (1) The applicant is a household member of the
7 respondent's or a co-owner of the vehicle;
- 8 (2) The applicant has a license that has not expired or
9 been suspended or revoked;
- 10 (3) The applicant is completely dependent on the motor
11 vehicle for the necessities of life;
- 12 (4) The director finds that the applicant will take
13 reasonable precautions to ensure that the respondent
14 will not drive the vehicle; and
- 15 (5) The respondent does not have a valid ignition
16 interlock permit.

17 A person to whom a special motor vehicle registration has been
18 granted shall apply to the director of the appropriate county
19 agency for special series number plates, as provided in section
20 249-9.4."

21 SECTION 21. Section 291E-61, Hawaii Revised Statutes, is
22 amended by amending subsection (c) to read as follows:



1 " (c) [~~Notwithstanding any other law to the contrary,~~]
2 Except as provided in sections 286-A and 291E-B, the court shall
3 not issue an ignition interlock permit to:

4 (1) A defendant whose license is expired, suspended, or
5 revoked as a result of action other than the instant
6 offense;

7 (2) A defendant who does not hold a valid license at the
8 time of the instant offense; [~~or~~]

9 (3) A defendant who holds either a category 4 license
10 under section 286-102(b) or a commercial driver's
11 license under section 286-239(b), unless the ignition
12 interlock permit is restricted to a category 1, 2, or
13 3 license under section 286-102(b) [~~or~~]; or

14 (4) A defendant who holds a license that is a learner's
15 permit or instruction permit."

16 SECTION 22. Section 291E-68, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "~~[+]§291E-68[+]~~ **Refusal to submit to a breath, blood, or**
19 **urine test; penalty.** [~~Refusal~~] Except as provided in section
20 291E-65, refusal to submit to a breath, blood, or urine test as
21 required by part II is a petty misdemeanor."



1 SECTION 23. In codifying the new sections added by
2 sections 2, 3, and 4 of this Act, the revisor of statutes shall
3 substitute appropriate section numbers for the letters used in
4 designating the new sections in this Act.

5 SECTION 24. This Act does not affect rights and duties
6 that matured, penalties that were incurred, and proceedings that
7 were begun before its effective date.

8 SECTION 25. If any provision of this Act, or the
9 application thereof to any person or circumstance is held
10 invalid, the invalidity does not affect other provisions or
11 applications of the Act, which can be given effect without the
12 invalid provision or application, and to this end the provisions
13 of this Act are severable.

14 SECTION 26. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 27. This Act shall take effect on July 1, 2012.

APPROVED this day of , 2012

GOVERNOR OF THE STATE OF HAWAII

