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

3 (1) The license renewal shall be for the sole purpose of
4 obtaining or extending a permit issued pursuant to
5 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 an ex parte
4 petition in the district court for permission to apply for an
5 ignition interlock instruction permit that will allow the person
6 to take the driving demonstration portion of the driver's
7 license examination. The petition shall be filed with the clerk
8 of the district court in the district in which the arrest
9 occurred and shall be accompanied by the required filing fee for
10 civil 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 If the requirements of paragraphs (1) through (3) are met, the
2 district court shall grant the petition and issue an order
3 allowing the petitioner to apply to the director for an ignition
4 interlock instruction permit and requiring the director to
5 remove any stopper placed on the petitioner's motor vehicle
6 registration files pursuant to part III of chapter 291E, as
7 applicable; provided that the petitioner complies with
8 applicable driver licensing requirements under part VI of
9 chapter 286, and proof of financial responsibility under chapter
10 287. Upon submission of the order to the director, the director
11 shall remove any stopper placed on the person's motor vehicle
12 registration files and issue a certified statement indicating
13 eligibility for an ignition interlock instruction permit.

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

16 (1) Present the certified statement of eligibility for
17 ignition interlock instruction permit to the examiner
18 of drivers;

19 (2) Pass the written portion of the driver's license
20 examination in accordance with section 286-108;



1 (3) Install an ignition interlock device on a vehicle to
2 be used for the driving demonstration portion of the
3 driver's license examination;

4 (4) Submit to the director the following:

5 (A) Proof of passing the written portion of the
6 driver's license examination;

7 (B) Proof of installation of the ignition interlock
8 device;

9 (C) Proof of motor vehicle insurance; and

10 (D) Proof of a valid motor vehicle registration.

11 Upon proof of the requirements of paragraph (4), the director
12 shall issue an ignition interlock instruction permit that will
13 allow the person to drive a category 1, 2, or 3 vehicle under
14 section 286-102(b) equipped with an ignition interlock device
15 for the period as provided in section 286-110; provided that a
16 holder of the ignition interlock instruction permit for a
17 category 3 vehicle shall be accompanied by a person who is
18 twenty-one years of age or older and licensed to operate a
19 category 3 vehicle. The licensed person shall occupy a
20 passenger seat beside the permit holder while the category 3
21 vehicle equipped with an ignition interlock device is being
22 operated. For the purposes of this section, "examiner of



1 drivers" shall have the same meaning as provided in section 286-
2 2.

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

13 (e) After a minimum period of five years from the issuance
14 of an ignition interlock permit under subsection (d), a person
15 subject to a lifetime license revocation for operating a motor
16 vehicle while under the influence of an intoxicant may file a
17 petition in the district court to reinstate the person's
18 eligibility for license and privilege to operate a vehicle
19 without an ignition interlock device. The petition shall be
20 filed with the clerk of the district court in the district in
21 which the arrest occurred and shall be accompanied by the
22 required filing fee for civil actions. A copy of the petition



1 shall be served on the prosecuting attorney in the county in
2 which the petition is filed. The petition shall include the
3 following:

4 (1) A certified court abstract establishing that:

5 (A) The petitioner has no pending traffic matters,
6 outstanding fines, outstanding court costs, and
7 outstanding restitution; and

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

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

17 (3) A certified statement from the director of
18 transportation establishing that:

19 (A) The petitioner has had an ignition interlock
20 device installed in a vehicle without a
21 cumulative break of more than thirty days during



1 the five years immediately preceding the
2 petition; and

3 (B) The petitioner has not attempted to operate a
4 vehicle with .04 or more grams of alcohol per two
5 hundred ten liters of breath during the two years
6 immediately preceding the petition;

7 (4) A certificate of service demonstrating the place,
8 time, and manner of service of the petition on the
9 prosecuting attorney; and

10 (5) A proposed order.

11 Within ten days of service of the petition, the prosecuting
12 attorney may submit a written request for a hearing on the
13 petition. The district court shall set a hearing and the
14 prosecuting attorney shall serve notice of the hearing upon the
15 petitioner at the petitioner's address shown on the petition and
16 in accordance with the applicable court rules pertaining to
17 service of civil process. The prosecuting attorney shall appear
18 at the hearing on the petition and may offer evidence and
19 argument in support of or against the granting of the petition.
20 If the requirements of paragraphs (1) through (5) are met, and
21 it appears to the court that the petitioner is not likely to
22 operate a vehicle under the influence of an intoxicant, the



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

11 SECTION 5. Section 291E-1, Hawaii Revised Statutes, is
 12 amended as follows:

13 1. By amending the definitions of "administrative
 14 revocation", "alcohol enforcement contact", and "repeat
 15 intoxicated driver" to read:

16 "Administrative revocation" means termination of the
 17 respondent's [+

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

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



1 but does not include any revocation imposed under section 291E-
2 61 or 291E-61.5.

3 "Alcohol enforcement contact" means:

4 (1) Any administrative revocation ordered pursuant to part
5 III;

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

9 (3) Any suspension or revocation of any license [~~or motor~~
10 ~~vehicle registration, or both,~~] or any suspension or
11 revocation of a privilege to operate a vessel underway
12 imposed by this or any other state or federal
13 jurisdiction for refusing to submit to a test for
14 alcohol concentration;

15 (4) Any conviction in this State for operating or being in
16 physical control of a vehicle while having an unlawful
17 alcohol concentration or while under the influence of
18 alcohol; or

19 (5) Any conviction in any other state or federal
20 jurisdiction for an offense that is comparable to
21 operating or being in physical control of a vehicle



1 while having an unlawful alcohol concentration or
2 while under the influence of alcohol.

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

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

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

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

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

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

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

16 (3) Has had one prior alcohol enforcement contact or drug
17 enforcement contact during the five years preceding
18 the date of arrest, two prior alcohol enforcement
19 contacts or drug enforcement contact during the
20 [seven] five years preceding the date of arrest, or
21 three or more prior alcohol enforcement contacts or



1 drug enforcement contact during the ten years
2 preceding the date of arrest."

3 2. By repealing the definitions of "temporary number
4 plates" and "temporary vehicle registration".

5 [~~"Temporary number plates" refers to the temporary number
6 plates given, along with the temporary vehicle registration, to
7 a respondent pursuant to section 291E-33, but does not include a
8 temporary number plate attached to a new vehicle pursuant to
9 sections 249-7.5 and 286-53.~~

10 ~~"Temporary vehicle registration" means the portion of the
11 notice of administrative revocation that, when completed by the
12 arresting law enforcement officer, permits the respondent to
13 drive a vehicle registered in the name of the respondent for
14 thirty days or until the time established by the director under
15 part III."~~]

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

18 "(d) The vendor selected for installation and maintenance
19 of ignition interlock devices pursuant to chapter 291E shall be
20 audited annually by the director of transportation pursuant to
21 this section and the rules adopted thereunder. The director of of



1 transportation may require the vendor to pay for all or part of
2 the costs incurred in conducting the audit."

3 SECTION 7. Section 291E-31, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§291E-31 Notice of administrative revocation; effect. As
6 used in this part, the notice of administrative revocation:

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

10 (A) Thirty days after the date the notice of
11 administrative revocation is issued in the case
12 of an alcohol related offense;

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

16 (C) Such later date as is established by the director
17 under section 291E-38,

18 if the director administratively revokes the
19 respondent's license and privilege;

20 [~~2~~] ~~Establishes that the registration of any motor vehicle~~
21 ~~registered to a respondent who is a repeat intoxicated~~



~~driver shall be terminated thirty days after the date of an arrest pursuant to section 291E-33(c);~~

~~(3)~~ (2) Establishes the date on which administrative revocation proceedings against the respondent were initiated;

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

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

SECTION 8. Section 291E-33, Hawaii Revised Statutes, is amended to read as follows:

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

(1) There was reasonable suspicion to stop the vehicle or the vehicle was stopped at an intoxicant control



1 roadblock established and operated in compliance with
2 sections 291E-19 and 291E-20; and
3 (2) There was probable cause to believe that the person
4 was operating the vehicle while under the influence of
5 an intoxicant;
6 the law enforcement officer [~~immediately~~] shall take possession
7 of any license held by the person and request the person to take
8 a test for alcohol concentration, in the case of an alcohol
9 related offense, or a test for drug content in the blood or
10 urine, in the case of a drug related offense. The law
11 enforcement officer shall inform the person that, in the case of
12 an alcohol related offense, the person shall elect to take a
13 breath test, a blood test, or both, pursuant to section 291E-11,
14 but that the person may refuse to submit to testing under this
15 chapter. In the case of a drug related offense, the person
16 shall elect to take a blood test, a urine test, or both,
17 pursuant to section 291E-11, after being informed that the
18 person may refuse to submit to testing under this chapter.
19 (b) When applicable under section 291E-15, the law
20 enforcement officer also shall:

- 1 (1) Inform the person of the sanctions under section
- 2 291E-41, including the sanction for refusing to take a
- 3 breath, blood, or urine test, if applicable; and
- 4 (2) Ask the person if the person still refuses to submit
- 5 to a breath, blood, or urine test, upon the law
- 6 enforcement officer's determination that, after the
- 7 person has been informed by a law enforcement officer
- 8 that the person may refuse to submit to testing, the
- 9 person under arrest has refused to submit to a breath,
- 10 blood, or urine test.

11 ~~[Thereafter]~~ (c) After taking action pursuant to subsections
 12 (a) and (b), as applicable, the law enforcement officer shall
 13 complete and issue to the person a notice of administrative
 14 revocation and shall indicate thereon whether the notice shall
 15 serve as a temporary permit. The notice shall serve as a
 16 temporary permit, unless, at the time of arrest: the person was
 17 unlicensed; the person's license or privilege to operate a
 18 vehicle was revoked or suspended; or the person had no license
 19 in the person's possession.

20 ~~[-(b)-]~~ (d) Whenever a law enforcement officer determines
 21 that, as the result of a blood or urine test performed pursuant
 22 to section 291E-21, there is probable cause to believe that a



1 person being treated in a hospital or medical facility has
2 violated section 291E-61 or 291E-61.5, the law enforcement
3 officer immediately shall take possession of any license held by
4 the person and shall complete and issue to the person a notice
5 of administrative revocation and indicate thereon whether the
6 notice shall serve as a temporary permit. The notice shall
7 serve as a temporary permit unless, at the time the notice was
8 issued: the person was unlicensed; the person's license or
9 privilege to operate a vehicle was revoked or suspended; or the
10 person had no license in the person's possession.

11 ~~[(c) Whenever a respondent under this section is a repeat~~
12 ~~intoxicated driver, the arresting law enforcement officer shall~~
13 ~~take possession of the motor vehicle registration and, if the~~
14 ~~motor vehicle being driven by the respondent is registered to~~
15 ~~the respondent, remove the number plates and issue a temporary~~
16 ~~motor vehicle registration and temporary number plates for the~~
17 ~~motor vehicle. No temporary motor vehicle registration or~~
18 ~~temporary number plates shall be issued if the respondent's~~
19 ~~registration has expired or been revoked. The applicable police~~
20 ~~department, upon determining that the respondent is a repeat~~
21 ~~intoxicated driver, shall notify the director of the appropriate~~
22 ~~county agency to enter a stopper on the motor vehicle~~



1 ~~registration files to prevent the respondent from conducting any~~
2 ~~motor vehicle transactions, except as permitted under this~~
3 ~~part.] "~~

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

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

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

- 11 (1) Information identifying the respondent;
- 12 (2) The specific violation for which the respondent was
13 arrested;
- 14 (3) The date issued and the date the administrative
15 revocation is scheduled to go into effect;
- 16 (4) The expiration date of the temporary permit[, ~~and the~~
17 ~~temporary motor vehicle registration and temporary~~
18 ~~number plates if applicable~~]; and
- 19 (5) That the issuance of the notice of administrative
20 revocation will be administratively reviewed.

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



- 1 (1) That the review is automatic;
- 2 (2) That the respondent, within three days of the issuance
- 3 of the notice of administrative revocation in the case
- 4 of an alcohol related offense and within seventeen
- 5 days of the issuance of the notice of administrative
- 6 revocation in the case of a drug related offense, may
- 7 submit written information demonstrating why the
- 8 respondent's license and privilege to operate a
- 9 vehicle [~~, and motor vehicle registration if~~
- 10 ~~applicable,~~] should not be administratively revoked;
- 11 (3) The address or location where the respondent may
- 12 submit the information;
- 13 (4) That the respondent is not entitled to be present or
- 14 represented at the administrative review; and
- 15 (5) That the administrative review decision shall be
- 16 mailed to the respondent:
- 17 (A) No later than eight days after the date of the
- 18 issuance of the notice of administrative
- 19 revocation in the case of an alcohol related
- 20 offense; and



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

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

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

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



1 (2) That the respondent may request the director, within
2 six days of the date the 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 decision was mailed,
8 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 effect for the
20 period and under the conditions established by the
21 director in the 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 a request
7 under paragraph (6) is received, but that, except as
8 provided in section [~~291E-38(k)~~], 291E-38(j), the
9 temporary permit [~~, and temporary motor vehicle~~
10 ~~registration and temporary number plates if~~
11 ~~applicable,~~] shall not be extended if the respondent
12 fails to request an administrative hearing within the
13 initial six-day period provided for that purpose;
- 14 (8) That failure to attend the hearing shall cause the
15 administrative revocation to take effect for the
16 period and under the conditions indicated;
- 17 (9) The duration of the administrative revocation and
18 other conditions that may be imposed, including:
19 referral to the driver's education program for an
20 assessment of the respondent's substance abuse or
21 dependence and the need for treatment;



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

9 ~~[(11)]~~ (10) That the respondent shall obtain an ignition
10 interlock permit in order to operate a vehicle during
11 the revocation period if the respondent had a valid
12 license at the time of the arrest."

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

14 "(g) The notice shall state that, if the administrative
15 revocation is reversed after the hearing, the respondent's
16 license [~~, and if applicable, motor vehicle registration and any~~
17 ~~number plates taken into custody,~~] shall be returned, along with
18 a certified statement that the administrative revocation
19 proceedings have been terminated.

20 (h) The notice shall state that, if the administrative
21 revocation is sustained at the hearing, a written decision shall
22 be mailed to the respondent, or to the parent or guardian of the



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

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

4 (2) The duration of the administrative revocation;

5 ~~[-(3) If applicable, the date by which any outstanding motor
6 vehicle number plates issued to the respondent must be
7 surrendered to the director;~~

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

10 ~~-(5)]~~ (3) Other conditions that may be imposed by law,
11 including the use of an ignition interlock device; and

12 ~~[-(6)]~~ (4) The right to obtain judicial review."

13 SECTION 10. Section 291E-35, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§291E-35 Immediate restoration of license ~~[and motor~~
16 ~~vehicle registration]~~. (a) In cases involving an alcohol
17 related offense, if a test conducted in accordance with part II
18 and section 321-161 and the rules adopted thereunder shows that
19 a respondent had an alcohol concentration less than .08, the
20 director or the arresting law enforcement agency immediately
21 shall return the respondent's license ~~[, and if applicable, motor~~
22 ~~vehicle registration and any number plates taken into custody,]~~



1 along with a certified statement that administrative revocation
2 proceedings have been terminated with prejudice.

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

14 SECTION 11. Section 291E-36, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§291E-36 Documents required to be submitted for
17 administrative review; sworn statements. (a) Whenever a
18 respondent has been arrested for a violation of section 291E-61
19 or 291E-61.5 and submits to a test that establishes: the
20 respondent's alcohol concentration was .08 or more; the
21 presence, in the respondent's blood or urine, of any drug that
22 is capable of impairing the respondent's ability to operate a



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

10 (1) A copy of the arrest report or the report of the law
11 enforcement officer who issued the notice of
12 administrative revocation to the person involved in a
13 collision resulting in injury or death and the sworn
14 statement of the arresting law enforcement officer or
15 the officer who issued the notice of administrative
16 revocation, stating facts that establish that:

17 (A) There was 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
21 the respondent was tested pursuant to section
22 291E-21;



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

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

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

11 (A) The equipment used to conduct the test was
12 approved for use as an alcohol testing device in
13 this State;

14 (B) The person had been trained and at the time the
15 test was conducted was certified and capable of
16 maintaining the testing equipment; and

17 (C) The testing equipment used had been properly
18 maintained and was in good working condition when
19 the test was conducted;

20 (3) In a case involving an alcohol related offense, the
21 sworn statement of the person who conducted the test,

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

3 (A) The person was trained and at the time the test
4 was conducted was certified and capable of
5 operating the testing equipment;

6 (B) The person followed the procedures established
7 for conducting the test;

8 (C) The equipment used to conduct the test functioned
9 in accordance with operating procedures and
10 indicated that the respondent's alcohol
11 concentration was at, or above, the prohibited
12 level; and

13 (D) The person whose breath or blood was tested is
14 the respondent;

15 (4) In a case involving a drug related offense, the sworn
16 statement of the person responsible for maintenance of
17 the testing equipment, stating facts that establish
18 that, pursuant to section 321-161 and rules adopted
19 thereunder:

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



1 (B) The person conducting the test had been trained
2 and, at the time of the test, was certified and
3 capable of maintaining the testing equipment; and

4 (C) The testing equipment used had been properly
5 maintained and was in good working condition when
6 the test was conducted;

7 (5) In a case involving a drug related offense, the sworn
8 statement of the person who conducted the test,
9 stating facts that establish that, pursuant to section
10 321-161 and rules adopted thereunder:

11 (A) At the time the test was conducted, the person
12 was trained and capable of operating the testing
13 equipment;

14 (B) The person followed the procedures established
15 for conducting the test;

16 (C) The equipment used to conduct the test functioned
17 in accordance with operating procedures and
18 indicated the presence of one or more drugs or
19 their metabolites in the respondent's blood or
20 urine; and

21 (D) The person whose blood or urine was tested is the
22 respondent;



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

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

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

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

14 (1) A copy of the arrest report and the sworn statement of
15 the arresting law enforcement officer, stating facts
16 that establish that:

17 (A) There was reasonable suspicion to stop the
18 vehicle or the vehicle was stopped at an
19 intoxicant control roadblock established and
20 operated in compliance with sections 291E-19 and
21 291E-20;



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

19 SECTION 12. Section 291E-37, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "§291E-37 Administrative review; procedures; decision.

22 (a) The director automatically shall review the issuance of a



1 notice of administrative revocation and shall issue a written
2 decision administratively revoking the license and privilege to
3 operate a vehicle [~~and motor vehicle registration if~~
4 ~~applicable,~~] or rescinding the notice of administrative
5 revocation. The written review decision shall be mailed to the
6 respondent, or to the parent or guardian of the respondent if
7 the respondent is under the age of eighteen, no later than:

8 (1) Eight days after the date the notice was issued in a
9 case involving an alcohol related offense; or

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

12 (b) The respondent shall have the opportunity to
13 demonstrate in writing why the respondent's license and
14 privilege to operate a vehicle [~~and motor vehicle registration~~
15 ~~if applicable,~~] should not be administratively revoked and,
16 within three days of receiving the notice of administrative
17 revocation, as provided in section 291E-33, shall submit any
18 written information, either by mail or in person, to the
19 director's office or to any office or address designated by the
20 director for that purpose.

21 (c) In conducting the administrative review, the director
22 shall consider:



- 1 (1) Any sworn or unsworn written statement or other
- 2 written evidence provided by the respondent;
- 3 (2) The breath, blood, or urine test results, if any; and
- 4 (3) The sworn statement of any law enforcement officer or
- 5 other person or other evidence or information required
- 6 by section 291E-36.
- 7 (d) The director shall administratively revoke the
- 8 respondent's license and privilege to operate a vehicle if the
- 9 director determines that:
 - 10 (1) There existed reasonable suspicion to stop the
 - 11 vehicle, the vehicle was stopped at an intoxicant
 - 12 control roadblock established and operated in
 - 13 compliance with sections 291E-19 and 291E-20, or the
 - 14 person was tested pursuant to section 291E-21;
 - 15 (2) There existed probable cause to believe that the
 - 16 respondent operated the vehicle while under the
 - 17 influence of an intoxicant; and
 - 18 (3) The evidence proves by a preponderance that:
 - 19 (A) The respondent operated the vehicle while under
 - 20 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 ~~[(e) The director shall administratively revoke the~~
12 ~~registration of any vehicle owned or registered to the~~
13 ~~respondent and take custody of any number plates issued to the~~
14 ~~respondent if the director determines that the respondent is a~~
15 ~~repeat intoxicated driver and that:~~

16 ~~(1) There existed reasonable suspicion to stop the~~
17 ~~vehicle, the vehicle was stopped at an intoxicant~~
18 ~~control roadblock established and operated in~~
19 ~~compliance with sections 291E-19 and 291E-20, or the~~
20 ~~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 [7
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 13. 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)~~] 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 (e), 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 [~~(j)~~] (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 hearing,
 2 or if a respondent under the age of eighteen fails to appear
 3 with a parent or guardian, administrative revocation shall take
 4 effect for the period and under the conditions established by
 5 the director in the administrative review decision issued by the
 6 director under section 291E-37."

7 SECTION 14. Section 291E-41, Hawaii Revised Statutes, is
 8 amended to read as follows:

9 "§291E-41 Effective date, conditions, and period of
 10 administrative revocation; criteria. (a) Unless an
 11 administrative revocation is reversed or the temporary permit [~~7~~
 12 ~~and temporary motor vehicle registration and temporary number~~
 13 ~~plates, if applicable, are]~~ is extended by the director,
 14 administrative revocation shall become effective on the day
 15 specified in the notice of administrative revocation. Except as
 16 provided in section 291E-44.5, no license and privilege to
 17 operate a vehicle shall be restored under any circumstances
 18 during the administrative revocation period. Upon completion of
 19 the administrative revocation period, the respondent may reapply
 20 and be reissued a license pursuant to section 291E-45.

21 (b) Except as provided in paragraph (5) and in section
 22 291E-44.5, the respondent shall keep an ignition interlock



1 device installed and operating in any vehicle the respondent
2 operates during the revocation period. Except as provided in
3 section 291E-5, installation and maintenance of the ignition
4 interlock device shall be at the respondent's ~~own~~ expense.
5 The periods of administrative revocation, with respect to a
6 license and privilege to operate a vehicle, ~~[and motor vehicle~~
7 ~~registration if applicable,]~~ that shall be imposed under this
8 part are as follows:

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

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

21 (3) A two-year revocation of license and privilege to
22 operate a vehicle ~~[and of the registration of any~~



1 ~~motor vehicle registered to the respondent]~~, if the
2 respondent's record shows two prior alcohol
3 enforcement contacts or drug enforcement contacts
4 during the five years preceding the date the notice of
5 administrative revocation was issued;

6 (4) A minimum of five years up to a maximum of ten years
7 revocation of license and privilege to operate a
8 vehicle [~~and of the registration of any motor vehicle~~
9 ~~registered to the respondent]~~, if the respondent's
10 record shows three or more prior alcohol enforcement
11 contacts or drug enforcement contacts during the ten
12 years preceding the date the notice of administrative
13 revocation was issued;

14 (5) For respondents under the age of eighteen years who
15 were arrested for a violation of section 291E-61 or
16 291E-61.5, revocation of license and privilege to
17 operate a vehicle for the appropriate revocation
18 period provided in paragraphs (1) to (4) or in
19 subsection [~~(d)~~] (c); provided that the respondent
20 shall be prohibited from driving during the period
21 preceding the respondent's eighteenth birthday and
22 shall thereafter be subject to the ignition interlock



1 requirement of this subsection for the balance of the
2 revocation period; or

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

11 (A) The respondent shall be absolutely prohibited
12 from driving during the revocation period and
13 subject to the penalties provided by section
14 291E-62 if the respondent drives during the
15 revocation period; and

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

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



1 or drug enforcement contact, whichever revocation, suspension,
2 or conviction occurs later.

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

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

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

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

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

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



1 treatment. The counselor shall submit a report with
2 recommendations to the director. If the counselor's assessment
3 establishes that the extent of the respondent's substance abuse
4 or dependence warrants treatment, the director shall so order.
5 All costs for assessment and treatment shall be paid by the
6 respondent.

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

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

13 SECTION 15. Section 291E-44.5, Hawaii Revised Statutes, is
14 amended to read as follows:

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



1 drive a vehicle equipped with an ignition interlock device
2 during the revocation period [~~7-07~~].

3 [~~(2)~~ Notwithstanding any other law to the contrary,] (b)

4 Except as provided in sections 286-A and 291E-B, the director
5 shall not issue an ignition interlock permit to:

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

9 [~~(B)~~] (2) A respondent who does not hold a valid license at
10 the time of arrest for the violation of section 291E-
11 61; [~~07~~]

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

14 [~~(C)~~] (4) A respondent who holds either a category 4
15 license under section 286-102(b) or a commercial
16 driver's license under section 286-239(b) unless the
17 ignition interlock permit is restricted to a category
18 1, 2, or 3 license under section 286-102(b).

19 [~~(b)(1)~~] (c) Except as provided in subsection [~~(a)(2)~~],

20 (b) the director may issue a separate permit authorizing a
21 respondent to operate a vehicle owned by the respondent's
22 employer during the period of revocation without installation of



1 an ignition interlock device if the respondent is gainfully
2 employed in a position that requires driving and the respondent
3 will be discharged if prohibited from driving a vehicle not
4 equipped with an ignition interlock device.

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

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

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

21 ~~[(e)]~~ (e) A permit issued pursuant to subsection ~~[(b)]~~ (c)
22 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 [~~vehicle~~] 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 16. Section 291E-46, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[~~§~~291E-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 17. Section 291E-61, Hawaii Revised Statutes, is
19 amended by amending subsection (c) to read as follows:

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



- 1 (1) A defendant whose license is expired, suspended, or
- 2 revoked as a result of action other than the instant
- 3 offense;
- 4 (2) A defendant who does not hold a valid license at the
- 5 time of the instant offense; [~~e~~]
- 6 (3) A defendant who holds either a category 4 license
- 7 under section 286-102(b) or a commercial driver's
- 8 license under section 286-239(b), unless the ignition
- 9 interlock permit is restricted to a category 1, 2, or
- 10 3 license under section 286-102(b) [~~-~~]; or
- 11 (4) A defendant who holds a license that is a learner's
- 12 permit or instruction permit."

13 SECTION 18. Section 291E-68, Hawaii Revised Statutes, is
 14 amended to read as follows:

15 "[~~+~~]§291E-68[~~+~~] Refusal to submit to a breath, blood, or
 16 urine test; penalty. [~~Refusal~~] Except as provided in section
 17 291E-65, refusal to submit to a breath, blood, or urine test as
 18 required by part II is a petty misdemeanor."

19 SECTION 19. In codifying the new sections added by
 20 sections 2, 3, and 4 of this Act, the revisor of statutes shall
 21 substitute appropriate section numbers for the letters used in
 22 designating the new sections in this Act.



1 SECTION 20. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

4 SECTION 21. If any provision of this Act, or the
5 application thereof to any person or circumstance is held
6 invalid, the invalidity does not affect other provisions or
7 applications of the Act, which can be given effect without the
8 invalid provision or application, and to this end the provisions
9 of this Act are severable.

10 SECTION 22. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 23. This Act shall take effect on July 1, 2012.

13

INTRODUCED BY:

[Handwritten signatures and names]

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Report Title:

Ignition Interlock; Repeat Intoxicated Drivers

Description:

Clarifies recommendations of the ignition interlock implementation task force. Allows for renewal of a driver's license revoked for impaired driving. Allows repeat intoxicated drivers to install ignition interlock devices in any vehicle they operate, by eliminating the requirement to surrender motor vehicle registrations and license plates. Provides guidelines for ignition interlock instruction permits and ignition interlock permits. Makes housekeeping amendments to chapter 291E.

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

