

JAN 25 2012

A BILL FOR AN ACT

RELATING TO USE OF INTOXICANTS WHILE OPERATING A VEHICLE.

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, as amended by Act 166, Session Laws of
6 Hawaii 2010.

7 SECTION 2. Chapter 291E, Hawaii Revised Statutes, is
8 amended by adding a new section to part III to be appropriately
9 designated and to read as follows:

10 "§291E- Repeat intoxicated driver after December 31,
11 2011; return of motor vehicle registration and number plates.

12 Any repeat intoxicated driver arrested for a violation of
13 section 291E-61 or 291E-61.5 after December 31, 2011, may
14 request the return of any motor vehicle registration and number
15 plates surrendered to the director as a result of the arrest in
16 order to comply with this part. The director shall return the
17 motor vehicle registration and number plates unless a new
18 registration and number plates have been issued as a result of



1 the approval of an application for a special motor vehicle
 2 registration or application for consent to transfer title. Upon
 3 return of the motor vehicle registration and number plates, the
 4 repeat intoxicated driver may apply for an ignition interlock
 5 permit as provided in section 291E-44.5."

6 SECTION 3. Section 291E-1, Hawaii Revised Statutes, is
 7 amended as follows:

8 1. By amending the definitions of "administrative
 9 revocation", "alcohol enforcement contact", and "repeat
 10 intoxicated driver" to read:

11 "Administrative revocation" means termination of the
 12 respondent's[+]

13 ~~(1) License]~~ license and the privilege to operate a vessel
 14 underway on or in the waters of the State pursuant to
 15 part III[+and

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

18 but does not include any revocation imposed under section 291E-
 19 61 or 291E-61.5."

20 "Alcohol enforcement contact" means:

21 (1) Any administrative revocation ordered pursuant to part
 22 III;



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

4 (3) Any suspension or revocation of any license [~~or motor~~
5 ~~vehicle registration, or both,~~] or any suspension or
6 revocation of a privilege to operate a vessel underway
7 imposed by this or any other state or federal
8 jurisdiction for refusing to submit to a test for
9 alcohol concentration;

10 (4) Any conviction in this State for operating or being in
11 physical control of a vehicle while having an unlawful
12 alcohol concentration or while under the influence of
13 alcohol; or

14 (5) Any conviction in any other state or federal
15 jurisdiction for an offense that is comparable to
16 operating or being in physical control of a vehicle
17 while having an unlawful alcohol concentration or
18 while under the influence of alcohol."

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

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



- 1 (A) Section 291E-61 or 291E-61.5, as a result of
- 2 having consumed alcohol; or
- 3 (B) Section 291-4 or 291-4.4, as those sections were
- 4 in effect on or before December 31, 2001;
- 5 (2) Has been convicted, during the ten years preceding the
- 6 date of arrest, of three or more violations under:
- 7 (A) Section 291E-61 or 291E-61.5, as a result of
- 8 having consumed alcohol; or
- 9 (B) Section 291-4 or 291-4.4, as those sections were
- 10 in effect on or before December 31, 2001; or
- 11 (3) Has had one prior alcohol enforcement contact or drug
- 12 enforcement contact during the five years preceding
- 13 the date of arrest, two prior alcohol enforcement
- 14 contacts or drug enforcement contacts during the
- 15 [~~seven~~] five years preceding the date of arrest, or
- 16 three or more prior alcohol enforcement contacts or
- 17 drug enforcement contacts during the ten years
- 18 preceding the date of arrest."
- 19 2. By repealing the definitions of "qualified household
- 20 member", "temporary number plates", and "temporary vehicle
- 21 registration".



1 ~~["Qualified household member" means a household member of~~
2 ~~the respondent who has a license that has not expired or been~~
3 ~~suspended or revoked.~~

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

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

15 SECTION 4. Section 291E-6, Hawaii Revised Statutes, is
16 amended by amending subsection (d) to read as follows:

17 "(d) The vendor selected for installation and maintenance
18 of ignition interlock devices pursuant to chapter 291E shall be
19 audited annually by the director of transportation pursuant to
20 this section and the rules adopted thereunder. The director of
21 transportation may require the vendor to pay for all or part of
22 the costs incurred in conducting the audit."



1 SECTION 5. Section 291E-31, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§291E-31 Notice of administrative revocation; effect.** As
4 used in this part, the notice of administrative revocation:

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

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

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

14 (C) [~~Such~~] On a later date as is established by the
15 director under section 291E-38,

16 if the director administratively revokes the
17 respondent's license and privilege;

18 [~~(2)~~] ~~Establishes that the registration of any motor vehicle~~
19 ~~registered to a respondent who is a repeat intoxicated~~
20 ~~driver shall be terminated thirty days after the date~~
21 ~~of an arrest pursuant to section 291E-33(c);~~



1 ~~(3)~~ (2) Establishes the date on which administrative
2 revocation proceedings against the respondent were
3 initiated;

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

6 ~~(5)~~ (4) Notifies the respondent that the respondent shall
7 keep an ignition interlock device installed and
8 operating in any vehicle the respondent operates
9 during the revocation period if the respondent had a
10 valid license at the time of the arrest."

11 SECTION 6. Section 291E-33, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§291E-33 Probable cause determination; issuance of notice**
14 **of administrative revocation; procedures.** (a) Whenever a
15 person is arrested for a violation of section 291E-61 or 291E-
16 61.5 on a determination by the arresting law enforcement officer
17 that:

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



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

17 **(b)** When applicable under section 291E-15, the law
18 enforcement officer also shall:

19 (1) Inform the person of the sanctions under section
20 291E-41, including the sanction for refusing to take a
21 breath, blood, or urine test, if applicable; and



1 (2) Ask the person if the person still refuses to submit
2 to a breath, blood, or urine test, upon the law
3 enforcement officer's determination that, after the
4 person has been informed by a law enforcement officer
5 that the person may refuse to submit to testing, the
6 person under arrest has refused to submit to a breath,
7 blood, or urine test.

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

17 ~~[(b)]~~ (d) Whenever a law enforcement officer determines
18 that, as the result of a blood or urine test performed pursuant
19 to section 291E-21, there is probable cause to believe that a
20 person being treated in a hospital or medical facility has
21 violated section 291E-61 or 291E-61.5, the law enforcement
22 officer immediately shall take possession of any license held by



1 the person and shall complete and issue to the person a notice
2 of administrative revocation and indicate thereon whether the
3 notice shall serve as a temporary permit. The notice shall
4 serve as a temporary permit unless, at the time the notice was
5 issued: the person was unlicensed; the person's license or
6 privilege to operate a vehicle was revoked or suspended; or the
7 person had no license in the person's possession.

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



1 SECTION 7. Section 291E-34, Hawaii Revised Statutes, is
2 amended as follows:

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

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

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

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

- 20 (1) That the review is automatic;
- 21 (2) That the respondent, within three days of the issuance
22 of the notice of administrative revocation in the case



1 of an alcohol related offense and within seventeen
2 days of the issuance of the notice of administrative
3 revocation in the case of a drug related offense, may
4 submit written information demonstrating why the
5 respondent's license and privilege to operate a
6 vehicle [~~and motor vehicle registration if~~
7 ~~applicable,~~] should not be administratively revoked;

- 8 (3) The address or location where the respondent may
9 submit the information;
- 10 (4) That the respondent is not entitled to be present or
11 represented at the administrative review; and
- 12 (5) That the administrative review decision shall be
13 mailed to the respondent:

- 14 (A) No later than eight days after the date of the
15 issuance of the notice of administrative
16 revocation in the case of an alcohol related
17 offense; and
- 18 (B) No later than twenty-two days after the date of
19 the issuance of the notice of administrative
20 revocation in the case of a drug related offense.

21 (d) The notice shall state that, if the respondent's
22 license and privilege to operate a vehicle [~~and motor vehicle~~



1 ~~registration if applicable, are]~~ is not administratively revoked
2 after the review, the respondent's license[, ~~and if applicable,~~
3 ~~motor vehicle registration and any number plates taken into~~
4 ~~custody,~~] shall be returned, unless a subsequent alcohol or drug
5 enforcement contact has occurred, along with a certified
6 statement that the administrative revocation proceedings have
7 been terminated.

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

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

18 (2) That the respondent may request the director, within
19 six days of the date the decision is mailed, to
20 schedule an administrative hearing to review the
21 administrative revocation;



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



- 1 (7) That the director shall schedule the hearing to
2 commence no later than thirty days after a request
3 under paragraph (6) is received, but that, except as
4 provided in section [~~291E-38(k)~~], 291E-38(j), the
5 temporary permit [~~, and temporary motor vehicle~~
6 ~~registration and temporary number plates if~~
7 ~~applicable,~~] shall not be extended if the respondent
8 fails to request an administrative hearing within the
9 initial six-day period provided for that purpose;
- 10 (8) That failure to attend the hearing shall cause the
11 administrative revocation to take effect for the
12 period and under the conditions indicated;
- 13 (9) The duration of the administrative revocation and
14 other conditions that may be imposed, including:
15 referral to the driver's education program for an
16 assessment of the respondent's substance abuse or
17 dependence and the need for treatment;
- 18 [~~(10)~~] ~~That, pursuant to section 291E-48, the director may~~
19 ~~grant a special motor vehicle registration to a~~
20 ~~qualified household member or to a co-owner of any~~
21 ~~motor vehicle owned by the respondent, upon a~~
22 ~~determination that the person is completely dependent~~



1 ~~on the motor vehicle for the necessities of life;~~
2 ~~provided that the special motor vehicle registration~~
3 ~~shall not be valid for use by the respondent,] and~~
4 [~~(11)~~] (10) That the respondent shall obtain an ignition
5 interlock permit in order to operate a vehicle during
6 the revocation period if the respondent had a valid
7 license at the time of the arrest."

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

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

15 (h) The notice shall state that, if the administrative
16 revocation is sustained at the hearing, a written decision shall
17 be mailed to the respondent, or to the parent or guardian of the
18 respondent if the respondent is under the age of eighteen, that
19 shall contain, at a minimum, the following information:

- 20 (1) The effective date of the administrative revocation;
21 (2) The duration of the administrative revocation;



- 1 ~~[(3) If applicable, the date by which any outstanding motor~~
- 2 ~~vehicle number plates issued to the respondent must be~~
- 3 ~~surrendered to the director;~~
- 4 ~~(4) If applicable, that failure to surrender any motor~~
- 5 ~~vehicle number plates as required is a misdemeanor;~~
- 6 ~~(5)]~~ (3) Other conditions that may be imposed by law,
- 7 including the use of an ignition interlock device; and
- 8 ~~[(6)]~~ (4) The right to obtain judicial review."

9 SECTION 8. Section 291E-35, Hawaii Revised Statutes, is
 10 amended to read as follows:

11 "**§291E-35 Immediate restoration of license [~~and motor~~**
 12 **~~vehicle registration]~~**. (a) In cases involving an alcohol
 13 related offense, if a test conducted in accordance with part II
 14 and section 321-161 and the rules adopted thereunder shows that
 15 a respondent had an alcohol concentration less than .08, the
 16 director or the arresting law enforcement agency immediately
 17 shall return the respondent's license~~[, and if applicable, motor~~
 18 ~~vehicle registration and any number plates taken into custody,]~~
 19 along with a certified statement that administrative revocation
 20 proceedings have been terminated with prejudice.

21 (b) In cases involving a drug related offense, if a test
 22 conducted in accordance with part II and section 321-161 and the



1 rules adopted thereunder fails to show the presence, in the
2 respondent's blood or urine, of any drug that is capable of
3 impairing the respondent's ability to operate a vehicle in a
4 careful and prudent manner, the director or the arresting law
5 enforcement agency immediately shall return the respondent's
6 license[, and if applicable, motor vehicle registration and any
7 number plates taken into custody,] along with a certified
8 statement that administrative revocation proceedings have been
9 terminated with prejudice."

10 SECTION 9. Section 291E-36, Hawaii Revised Statutes, is
11 amended by amending subsections (a) and (b) to read as follows:

12 "(a) Whenever a respondent has been arrested for a
13 violation of section 291E-61 or 291E-61.5 and submits to a test
14 that establishes: the respondent's alcohol concentration was
15 .08 or more; the presence, in the respondent's blood or urine,
16 of any drug that is capable of impairing the respondent's
17 ability to operate a vehicle in a careful and prudent manner; or
18 whenever a respondent has been involved in a collision resulting
19 in injury or death and a blood or urine test performed pursuant
20 to section 291E-21 establishes that the respondent's alcohol
21 concentration was .08 or more or establishes the presence in the
22 respondent's blood or urine of any drug that is capable of



1 impairing the respondent's ability to operate a vehicle in a
2 careful and prudent manner, the following shall be forwarded
3 immediately to the director:

4 (1) A copy of the arrest report or the report of the law
5 enforcement officer who issued the notice of
6 administrative revocation to the person involved in a
7 collision resulting in injury or death and the sworn
8 statement of the arresting law enforcement officer or
9 the officer who issued the notice of administrative
10 revocation, stating facts that establish that:

11 (A) There was reasonable suspicion to stop the
12 vehicle, the vehicle was stopped at an intoxicant
13 control roadblock established and operated in
14 compliance with sections 291E-19 and 291E-20, or
15 the respondent was tested pursuant to section
16 291E-21;

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

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



- 1 (2) In a case involving an alcohol related offense, the
- 2 sworn statement of the person responsible for
- 3 maintenance of the testing equipment, stating facts
- 4 that establish that, pursuant to section 321-161 and
- 5 rules adopted thereunder:
- 6 (A) The equipment used to conduct the test was
- 7 approved for use as an alcohol testing device in
- 8 this State;
- 9 (B) The person had been trained and at the time the
- 10 test was conducted was certified and capable of
- 11 maintaining the testing equipment; and
- 12 (C) The testing equipment used had been properly
- 13 maintained and was in good working condition when
- 14 the test was conducted;
- 15 (3) In a case involving an alcohol related offense, the
- 16 sworn statement of the person who conducted the test,
- 17 stating facts that establish that, pursuant to section
- 18 321-161 and rules adopted thereunder:
- 19 (A) The person was trained and at the time the test
- 20 was conducted was certified and capable of
- 21 operating the testing equipment;



- 1 (B) The person followed the procedures established
- 2 for conducting the test;
- 3 (C) The equipment used to conduct the test functioned
- 4 in accordance with operating procedures and
- 5 indicated that the respondent's alcohol
- 6 concentration was at, or above, the prohibited
- 7 level; and
- 8 (D) The person whose breath or blood was tested is
- 9 the respondent;
- 10 (4) In a case involving a drug related offense, the sworn
- 11 statement of the person responsible for maintenance of
- 12 the testing equipment, stating facts that establish
- 13 that, pursuant to section 321-161 and rules adopted
- 14 thereunder:
- 15 (A) The equipment used to conduct the test was
- 16 approved for use in drug testing;
- 17 (B) The person conducting the test had been trained
- 18 and, at the time of the test, was certified and
- 19 capable of maintaining the testing equipment; and
- 20 (C) The testing equipment used had been properly
- 21 maintained and was in good working condition when
- 22 the test was conducted;



1 (5) In a case involving a drug related offense, the sworn
2 statement of the person who conducted the test,
3 stating facts that establish that, pursuant to section
4 321-161 and rules adopted thereunder:

5 (A) At the time the test was conducted, the person
6 was trained and capable of operating the testing
7 equipment;

8 (B) The person followed the procedures established
9 for conducting the test;

10 (C) The equipment used to conduct the test functioned
11 in accordance with operating procedures and
12 indicated the presence of one or more drugs or
13 their metabolites in the respondent's blood or
14 urine; and

15 (D) The person whose blood or urine was tested is the
16 respondent;

17 (6) A copy of the notice of administrative revocation
18 issued by the law enforcement officer to the
19 respondent;

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



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

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

8 (1) A copy of the arrest report and the sworn statement of
9 the arresting law enforcement officer, stating facts
10 that establish that:

11 (A) There was reasonable suspicion to stop the
12 vehicle or the vehicle was stopped at an
13 intoxicant control roadblock established and
14 operated in compliance with sections 291E-19 and
15 291E-20;

16 (B) There was probable cause to believe that the
17 respondent had been operating the vehicle while
18 under the influence of an intoxicant;

19 (C) The respondent was informed of:

20 (i) The sanctions of section 291E-41;

21 (ii) The possibility that criminal charges may be
22 filed; and



- 1 (iii) The probable consequences of refusing to be
- 2 tested for alcohol concentration or drug
- 3 content in the blood or urine; and
- 4 (D) The respondent refused to be tested;
- 5 (2) A copy of the notice of administrative revocation
- 6 issued to the respondent;
- 7 (3) Any [~~driver's~~] license[, ~~and motor vehicle~~
- 8 ~~registration and number plates if applicable,~~] taken
- 9 into possession; and
- 10 (4) A listing of all alcohol and drug enforcement contacts
- 11 involving the respondent."

12 SECTION 10. Section 291E-37, Hawaii Revised Statutes, is
 13 amended to read as follows:

14 **"§291E-37 Administrative review; procedures; decision.**

15 (a) The director automatically shall review the issuance of a
 16 notice of administrative revocation and shall issue a written
 17 decision administratively revoking the license and privilege to
 18 operate a vehicle[, ~~and motor vehicle registration if~~
 19 ~~applicable,~~] or rescinding the notice of administrative
 20 revocation. The written review decision shall be mailed to the
 21 respondent, or to the parent or guardian of the respondent if
 22 the respondent is under the age of eighteen, no later than:



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

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

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

14 (c) In conducting the administrative review, the director
15 shall consider:

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

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

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



1 (d) The director shall administratively revoke the
2 respondent's license and privilege to operate a vehicle if the
3 director determines that:

4 (1) There existed reasonable suspicion to stop the
5 vehicle, the vehicle was stopped at an intoxicant
6 control roadblock established and operated in
7 compliance with sections 291E-19 and 291E-20, or the
8 person was tested pursuant to section 291E-21;

9 (2) There existed probable cause to believe that the
10 respondent operated the vehicle while under the
11 influence of an intoxicant; and

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

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

15 (B) The respondent operated the vehicle and refused
16 to submit to a breath, blood, or urine test after
17 being informed:

18 (i) That the person may refuse to submit to
19 testing in compliance with section 291E-11;
20 and

21 (ii) Of the sanctions of this part and then asked
22 if the person still refuses to submit to a



1 breath, blood, or urine test, in compliance
2 with the requirements of section 291E-15.

3 ~~[(e) The director shall administratively revoke the~~
4 ~~registration of any vehicle owned or registered to the~~
5 ~~respondent and take custody of any number plates issued to the~~
6 ~~respondent if the director determines that the respondent is a~~
7 ~~repeat intoxicated driver and that:~~

8 ~~(1) There existed reasonable suspicion to stop the~~
9 ~~vehicle, the vehicle was stopped at an intoxicant~~
10 ~~control roadblock established and operated in~~
11 ~~compliance with sections 291E-19 and 291E-20, or the~~
12 ~~person was tested pursuant to section 291E-21;~~

13 ~~(2) There existed probable cause to believe that the~~
14 ~~respondent operated the vehicle while under the~~
15 ~~influence of an intoxicant; and~~

16 ~~(3) The evidence proves by a preponderance that:~~

17 ~~(A) The respondent operated the vehicle while under~~
18 ~~the influence of an intoxicant; or~~

19 ~~(B) The respondent operated the vehicle and refused~~
20 ~~to submit to a breath, blood, or urine test after~~
21 ~~being informed.~~



1 ~~(i) That the person may refuse to submit to~~
 2 ~~testing in compliance with section 291E-11,~~
 3 ~~and~~

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

8 ~~(f)]~~ (e) If the evidence does not support administrative
 9 revocation, the director shall rescind the notice of
 10 administrative revocation and return the respondent's license[
 11 ~~and if applicable, motor vehicle registration and any number~~
 12 ~~plates taken into custody,~~] along with a certified statement
 13 that administrative revocation proceedings have been terminated.

14 ~~(g)]~~ (f) If the director administratively revokes the
 15 respondent's license and privilege to operate a vehicle, [~~and~~
 16 ~~motor vehicle registration if applicable,~~] the director shall
 17 mail a written review decision to the respondent, or to the
 18 parent or guardian of the respondent if the respondent is under
 19 the age of eighteen. The written review decision shall:

- 20 (1) State the reasons for the administrative revocation;
- 21 (2) Indicate that the respondent has six days from the
- 22 date the decision is mailed to request an



- 1 administrative hearing to review the director's
2 decision;
- 3 (3) Explain the procedure by which to request an
4 administrative hearing;
- 5 (4) Be accompanied by a form, postage prepaid, that the
6 respondent may fill out and mail in order to request
7 an administrative hearing;
- 8 (5) Inform the respondent of the right to review and copy
9 all documents considered at the review, including the
10 arrest report and the sworn statements of law
11 enforcement officers or other persons, prior to the
12 hearing; and
- 13 (6) State that the respondent may be represented by
14 counsel at the hearing, submit evidence, give
15 testimony, and present and cross-examine witnesses,
16 including the arresting law enforcement officer.

17 [~~(h)~~] (g) Failure of the respondent to request a hearing
18 within the time provided in section 291E-38(a) shall cause the
19 administrative revocation to take effect for the period and
20 under the conditions provided in the administrative review
21 decision issued by the director under this section. The
22 respondent may regain the right to an administrative hearing by



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

10 SECTION 11. Section 291E-38, Hawaii Revised Statutes, is
 11 amended to read as follows:

12 **"§291E-38 Administrative hearing; procedure; decision.**

13 (a) If the director administratively revokes the respondent's
 14 license and privilege to operate a vehicle[~~and motor vehicle~~
 15 ~~registration if applicable,~~] after the administrative review,
 16 the respondent may request an administrative hearing to review
 17 the decision within six days of the date the administrative
 18 review decision is mailed. If the request for hearing is
 19 received by the director within six days of the date the
 20 decision is mailed, the hearing shall be scheduled to commence
 21 no later than:



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

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

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

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

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

15 (d) The director shall conduct the hearing and have
16 authority to:

- 17 (1) Administer oaths and affirmations;
- 18 (2) Examine witnesses and take testimony;
- 19 (3) Receive and determine the relevance of evidence;
- 20 (4) Issue subpoenas;
- 21 (5) Regulate the course and conduct of the hearing;



1 (6) Impose up to the maximum license revocation period as
2 specified under section [~~291E-41(b)-~~] 291E-41(b)(4);
3 and

4 (7) Make a final ruling.

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

7 (1) There existed reasonable suspicion to stop the
8 vehicle, the vehicle was stopped at an intoxicant
9 control roadblock established and operated in
10 compliance with sections 291E-19 and 291E-20, or the
11 person was tested pursuant to section 291E-21;

12 (2) There existed probable cause to believe that the
13 respondent operated the vehicle while under the
14 influence of an intoxicant; and

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

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

18 (B) The respondent operated the vehicle and refused
19 to submit to a breath, blood, or urine test after
20 being informed:



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

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

8 [~~(f)~~] ~~In addition to subsection (c), the director shall~~
9 ~~affirm the administrative revocation of the registration of any~~
10 ~~motor vehicle owned by or registered to the respondent only if~~
11 ~~the director determines that the respondent is a repeat~~
12 ~~intoxicated driver. If the director affirms the administrative~~
13 ~~revocation pursuant to this subsection, the director shall order~~
14 ~~the respondent to surrender the number plates and motor vehicle~~
15 ~~registration of any motor vehicle owned by or registered to the~~
16 ~~respondent. The director may destroy any number plates taken~~
17 ~~into custody.~~

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

20 [~~(h)]~~ (g) The sworn statements provided in section 291E-36
21 shall be admitted into evidence. The director shall consider
22 the sworn statements in the absence of the law enforcement



1 officer or other person. Upon written notice to the director,
2 no later than five days prior to the hearing, that the
3 respondent wishes to examine a law enforcement officer or other
4 person who made a sworn statement, the director shall issue a
5 subpoena for the officer or other person to appear at the
6 hearing. Personal service upon the law enforcement officer or
7 other person who made a sworn statement shall be made no later
8 than forty-eight hours prior to the hearing time. If the
9 officer or other person cannot appear, the officer or other
10 person at the discretion of the director, may testify by
11 telephone.

12 [~~(i)~~] (h) The hearing shall be recorded in a manner to be
13 determined by the director.

14 [~~(j)~~] (i) The director's decision shall be rendered in
15 writing and mailed to the respondent, or to the parent or
16 guardian of the respondent if the respondent is under the age of
17 eighteen, no later than five days after the hearing is
18 concluded. If the decision is to reverse the administrative
19 revocation, the director shall 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 If the decision sustains the administrative revocation, the
2 director shall mail to the respondent a written decision
3 indicating the duration of the administrative revocation and any
4 other conditions or restrictions as may be imposed pursuant to
5 section 291E-41.

6 ~~[(k)]~~ (j) For good cause shown, the director may grant a
7 continuance either of the commencement of the hearing or of a
8 hearing that has already commenced. If a continuance is granted
9 at the request of the director, the director shall extend the
10 validity of the temporary permit, ~~[and temporary motor vehicle~~
11 ~~registration and temporary number plates if applicable,]~~ unless
12 otherwise prohibited, for a period not to exceed the period of
13 the continuance. If a continuance is granted at the request of
14 the respondent, the director shall not extend the validity of
15 the temporary permit~~[, or temporary motor vehicle registration~~
16 ~~and temporary number plates, if applicable]~~. For purposes of
17 this section, a continuance means a delay in the commencement of
18 the hearing or an interruption of a hearing that has commenced,
19 other than for recesses during the day or at the end of the day
20 or week. The absence from the hearing of a law enforcement
21 officer or other person, upon whom personal service of a



1 subpoena has been made as set forth in subsection ~~[(h),]~~ (g),
2 constitutes good cause for a continuance.

3 ~~[(1) The director may grant a special motor vehicle~~
4 ~~registration, pursuant to section 291E-48, to a qualified~~
5 ~~household member or a co owner of any motor vehicle upon~~
6 ~~determination that:~~

7 ~~(1) The person is completely dependent on the motor~~
8 ~~vehicle for the necessities of life, and~~

9 ~~(2) At the time of the application for a special motor~~
10 ~~vehicle registration, the respondent does not have a~~
11 ~~valid ignition interlock permit.~~

12 ~~The special motor vehicle registration shall not be valid for~~
13 ~~use by the respondent.~~

14 ~~(m)]~~ (k) If the respondent fails to appear at the hearing,
15 or if a respondent under the age of eighteen fails to appear
16 with a parent or guardian, administrative revocation shall take
17 effect for the period and under the conditions established by
18 the director in the administrative review decision issued by the
19 director under section 291E-37."

20 SECTION 12. Section 291E-39, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§291E-39 Fees and costs.** The director may assess and
2 collect a \$30 fee from the respondent to cover the costs of
3 processing the respondent's request for an administrative
4 hearing[~~. These costs include but shall not be limited to: the~~
5 ~~cost of photocopying documents, conditional license permits,~~
6 ~~temporary permits, temporary motor vehicle registrations,~~
7 ~~temporary number plates, and relicensing forms; interpreter~~
8 ~~services; and other similar costs]; provided that the costs of~~
9 issuing subpoenas for witnesses, including mileage fees, shall
10 be borne by the party requesting the subpoena. The director may
11 waive the fee in the case of an indigent respondent, upon an
12 appropriate inquiry into the financial circumstances of the
13 respondent seeking the waiver and an affidavit or a certificate
14 signed by the respondent demonstrating the respondent's
15 financial inability to pay the fee."

16 SECTION 13. Section 291E-41, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§291E-41 Effective date, conditions, and period of**
19 **administrative revocation; criteria.** (a) Unless an
20 administrative revocation is reversed or the temporary permit[~~,~~
21 ~~and temporary motor vehicle registration and temporary number~~
22 ~~plates, if applicable, are] is extended by the director,~~



1 administrative revocation shall become effective on the day
2 specified in the notice of administrative revocation. Except as
3 provided in section 291E-44.5, no license and privilege to
4 operate a vehicle shall be restored under any circumstances
5 during the administrative revocation period. Upon completion of
6 the administrative revocation period, the respondent may reapply
7 and be reissued a license pursuant to section 291E-45.

8 (b) Except as provided in paragraph (5) and in section
9 291E-44.5, the respondent shall keep an ignition interlock
10 device installed and operating in any vehicle the respondent
11 operates during the revocation period. Except as provided in
12 section 291E-5, installation and maintenance of the ignition
13 interlock device shall be at the respondent's [own] expense.
14 The periods of administrative revocation, with respect to a
15 license and privilege to operate a vehicle, [~~and motor vehicle~~
16 ~~registration if applicable,~~] that shall be imposed under this
17 part are as follows:

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



- 1 (2) An eighteen month revocation of license and privilege
2 to operate a vehicle [~~and of the registration of any~~
3 ~~motor vehicle registered to the respondent~~], if the
4 respondent's record shows one prior alcohol
5 enforcement contact or drug enforcement contact during
6 the five years preceding the date the notice of
7 administrative revocation was issued;
- 8 (3) A two-year revocation of license and privilege to
9 operate a vehicle [~~and of the registration of any~~
10 ~~motor vehicle registered to the respondent~~], if the
11 respondent's record shows two prior alcohol
12 enforcement contacts or drug enforcement contacts
13 during the five years preceding the date the notice of
14 administrative revocation was issued;
- 15 (4) A minimum of five years up to a maximum of ten years
16 revocation of license and privilege to operate a
17 vehicle [~~and of the registration of any motor vehicle~~
18 ~~registered to the respondent~~], if the respondent's
19 record shows three or more prior alcohol enforcement
20 contacts or drug enforcement contacts during the ten
21 years preceding the date the notice of administrative
22 revocation was issued;



1 (5) For respondents under the age of eighteen years who
2 were arrested for a violation of section 291E-61 or
3 291E-61.5, revocation of license and privilege to
4 operate a vehicle for the appropriate revocation
5 period provided in paragraphs (1) to (4) or in
6 subsection [~~(d)~~] (c); provided that the respondent
7 shall be prohibited from driving during the period
8 preceding the respondent's eighteenth birthday and
9 shall thereafter be subject to the ignition interlock
10 requirement of this subsection for the balance of the
11 revocation period; or

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

20 (A) The respondent shall be absolutely prohibited
21 from driving during the revocation period and
22 subject to the penalties provided by section



1 291E-62 if the respondent drives during the
2 revocation period; and
3 (B) The director shall not issue an ignition
4 interlock permit to the respondent pursuant to
5 section 291E-44.5;
6 provided that when more than one administrative revocation,
7 suspension, or conviction arises out of the same arrest, it
8 shall be counted as only one prior alcohol enforcement contact
9 or drug enforcement contact, whichever revocation, suspension,
10 or conviction occurs later.

11 ~~[(c) Whenever a motor vehicle registration is revoked~~
12 ~~under this part, the director shall cause the revocation to be~~
13 ~~entered electronically into the motor vehicle registration file~~
14 ~~of the respondent.~~

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

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

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



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

4 [~~e~~] (d) Whenever a license and privilege to operate a
5 vehicle is administratively revoked under this part, the
6 respondent shall be referred to the driver's education program
7 for an assessment, by a certified substance abuse counselor, of
8 the respondent's substance abuse or dependence and the need for
9 treatment. The counselor shall submit a report with
10 recommendations to the director. If the counselor's assessment
11 establishes that the extent of the respondent's substance abuse
12 or dependence warrants treatment, the director shall so order.
13 All costs for assessment and treatment shall be paid by the
14 respondent.

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

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

21 SECTION 14. Section 291E-42, Hawaii Revised Statutes, is
22 amended to read as follows:



1 **"§291E-42 Notice to other states.** When a nonresident's
 2 driving and boating privileges [~~, and motor vehicle registration~~
 3 ~~if applicable,~~] are administratively revoked under this part,
 4 the director shall:

5 (1) Notify, in writing, the officials in charge of traffic
 6 control, boating control, or public safety in the
 7 nonresident's home state, and in any other state in
 8 which the nonresident has driving and boating
 9 privileges [~~,]~~ or licenses, [~~or any motor vehicles~~
 10 ~~registered if applicable,~~] of the action taken in this
 11 State; and

12 (2) Return to the appropriate issuing authority in the
 13 other states any license [~~, and any motor vehicle~~
 14 ~~registration and number plates if applicable,~~] seized
 15 under section 291E-33."

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

18 **"§291E-44.5 Ignition interlock permits; driving for**
 19 **employment.** (a) [~~(1)~~] Except as provided in [~~paragraph (2)~~,]
 20 subsection (b), upon proof that the respondent has installed an
 21 ignition interlock device in [~~the respondent's vehicle,~~] any
 22 vehicle the respondent operates, the director shall issue an



1 ignition interlock permit that will allow the respondent to
2 drive a vehicle equipped with an ignition interlock device
3 during the revocation period[~~7-07~~].

4 [~~2~~] (b) Notwithstanding any other law to the contrary,
5 the director 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[~~7~~] except as provided in section
9 291E-45(b);

10 [~~B~~] (2) A respondent who does not hold a valid license at
11 the time of arrest for the violation of section 291E-
12 61; [~~07~~]

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

15 [~~C~~] (4) A respondent who holds either a category 4
16 license under section 286-102(b) or a commercial
17 driver's license under section 286-239(b) unless the
18 ignition interlock permit is restricted to a category
19 1, 2, or 3 license under section 286-102(b).

20 [~~b)(1)~~] (c) Except as provided in subsection [~~a)(2)~~,]
21 (b) the director may issue a separate permit authorizing a
22 respondent to operate a vehicle owned by the respondent's



1 employer during the period of revocation without installation of
2 an ignition interlock device if the respondent is gainfully
3 employed in a position that requires driving and the respondent
4 will be discharged if prohibited from driving a vehicle not
5 equipped with an ignition interlock device.

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

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

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



1 ~~[(e)]~~ (e) A permit issued pursuant to subsection ~~[(b)]~~ (c)
2 shall include restrictions allowing the respondent to drive:
3 (1) Only during specified hours of employment, not to
4 exceed twelve hours per day, and only for activities
5 solely within the scope of the employment;
6 (2) Only the vehicle specified; and
7 (3) Only if the permit is kept in the respondent's
8 possession while operating the employer's vehicle.
9 In addition, the director may impose other appropriate
10 restrictions."

11 SECTION 16. Section 291E-45, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§291E-45 Eligibility for relicensing [and reregistration]**
14 **of [motor vehicle.] vessel.** ~~[(a)]~~ To be eligible for
15 relicensing or renewing the privilege to operate a vessel after
16 a period of administrative revocation has expired, the person
17 shall:

- 18 (1) ~~[Submit proof to the director of compliance]~~ Comply
19 with all conditions imposed by the director;
20 ~~[(2) Obtain a certified statement from the director~~
21 ~~indicating eligibility for relicensing and for~~
22 ~~renewing the privilege to operate a vessel;~~



- 1 ~~(3) Present the certified statement to the appropriate~~
2 ~~licensing official or to the department of land and~~
3 ~~natural resources, as applicable; and~~
- 4 ~~(4) Successfully complete] (2) Complete~~ each requirement,
5 including payment of all applicable fees, for:
- 6 (A) Obtaining a new license in this State, pursuant
7 to chapter 286; or
- 8 (B) Renewing the privilege to operate a vessel, as
9 may be provided in chapter 200 or rules adopted
10 by the department of land and natural resources
11 pursuant to section 200-24.
- 12 ~~[(b) To be eligible for reregistration of a motor vehicle,~~
13 ~~if applicable, after a period of administrative revocation has~~
14 ~~expired, the person shall:~~
- 15 ~~(1) Submit proof to the director of compliance with all~~
16 ~~conditions imposed by the director;~~
- 17 ~~(2) Obtain a certified statement from the director~~
18 ~~indicating eligibility for registration of a motor~~
19 ~~vehicle;~~
- 20 ~~(3) Present the certified statement to the director of the~~
21 ~~appropriate county agency; and~~



1 ~~(4) Successfully complete each requirement, as provided in~~
2 ~~chapter 286, for obtaining a new certificate of~~
3 ~~registration for a motor vehicle in this State,~~
4 ~~including payment of all applicable fees.]"~~

5 SECTION 17. Section 291E-46, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "~~[-]~~**§291E-46**~~[+]~~ **Computation of time.** The time in which
8 any act provided in this part is to be done is computed by
9 excluding the first day and including the last, unless the last
10 day is a Saturday, Sunday, or state holiday, and then it also is
11 excluded[-]; provided that if the last day for the mailing of
12 decisions under sections 291E-37(a) and 291E-38(i) is a federal
13 holiday, it also is excluded."

14 SECTION 18. Section 291E-61, Hawaii Revised Statutes, is
15 amended by amending subsection (c) to read as follows:

16 "(c) Notwithstanding any other law to the contrary, the
17 court shall not issue an ignition interlock permit to:

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

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



1 (3) A defendant who holds either a category 4 license
 2 under section 286-102(b) or a commercial driver's
 3 license under section 286-239(b), unless the ignition
 4 interlock permit is restricted to a category 1, 2, or
 5 3 license under section 286-102(b) ~~[+]~~; or

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

8 SECTION 19. Section 291E-68, Hawaii Revised Statutes, is
 9 amended to read as follows:

10 "~~[+]~~**§291E-68**~~[+]~~ **Refusal to submit to a breath, blood, or**
 11 **urine test; penalty.** ~~[Refusal]~~ Except as provided in section
 12 291E-65, refusal to submit to a breath, blood, or urine test as
 13 required by part II is a petty misdemeanor."

14 SECTION 20. Section 249-9.4, Hawaii Revised Statutes, is
 15 repealed.

16 ~~["§249-9.4 **Special series number plates.** A qualified~~
 17 ~~household member, as defined in section 291E-1, or a co-owner of~~
 18 ~~a motor vehicle owned by a respondent under part III of chapter~~
 19 ~~291E, who has been granted a special motor vehicle registration~~
 20 ~~under section 291E-48, shall apply to the appropriate county~~
 21 ~~director of finance for special number plates that shall bear a~~
 22 ~~special series of numbers or letter so as to be readily~~



1 ~~identifiable by law enforcement officers and readily~~
2 ~~distinguishable from number plates or special number plates~~
3 ~~issued under sections 249-9.1, 249-9.2, and 249-9.3. The~~
4 ~~director of finance may issue the special series number plates~~
5 ~~only if:~~

6 (1) ~~The director of finance receives written approval for~~
7 ~~the issuance of special series number plates from the~~
8 ~~administrative director of the courts, or the~~
9 ~~administrative director's appointee pursuant to~~
10 ~~section 291E-1,~~

11 (2) ~~The qualified household member or a co-owner of the~~
12 ~~motor vehicle has a license that has not expired or~~
13 ~~been suspended or revoked; and~~

14 (3) ~~The applicant pays a fee for the special series number~~
15 ~~plates that is equal to the costs of the plates and~~
16 ~~tag or emblem, plus the administrative costs of~~
17 ~~furnishing the plates and tag or emblem and effecting~~
18 ~~the registration for each motor vehicle for which~~
19 ~~special series number plates are issued."]~~

20 SECTION 21. Section 291E-47, Hawaii Revised Statutes, is
21 repealed.



1 ~~["§291E-47] Failure to surrender number plates. Any~~
 2 ~~person who has had the person's motor vehicle registration~~
 3 ~~revoked pursuant to this part and subsequently fails to comply~~
 4 ~~with an order to surrender all motor vehicle number plates~~
 5 ~~issued to the person, pursuant to chapter 249, shall be guilty~~
 6 ~~of a misdemeanor."]~~

7 SECTION 22. Section 291E-48, Hawaii Revised Statutes, is
 8 repealed.

9 ~~["§291E-48 Special motor vehicle registration. (a)~~
 10 ~~Anytime after the effective date of revocation or after the~~
 11 ~~administrative hearing decision is mailed pursuant to section~~
 12 ~~291E-38(j), a qualified household member or co owner of a motor~~
 13 ~~vehicle with a respondent who has had a motor vehicle~~
 14 ~~registration revoked under this part may submit a sworn~~
 15 ~~statement to the director requesting a special motor vehicle~~
 16 ~~registration. The director may grant the request upon~~
 17 ~~determining that the following conditions have been met:~~

- 18 ~~(1) The applicant is a household member of the~~
 19 ~~respondent's or a co owner of the vehicle;~~
- 20 ~~(2) The applicant has a license that has not expired or~~
 21 ~~been suspended or revoked;~~



1 ~~(3) The applicant is completely dependent on the motor~~
2 ~~vehicle for the necessities of life;~~

3 ~~(4) The director finds that the applicant will take~~
4 ~~reasonable precautions to ensure that the respondent~~
5 ~~will not drive the vehicle; and~~

6 ~~(5) The respondent does not have a valid ignition~~
7 ~~interlock permit.~~

8 ~~A person to whom a special motor vehicle registration has been~~
9 ~~granted shall apply to the director of the appropriate county~~
10 ~~agency for special series number plates, as provided in section~~
11 ~~249-9.4.~~

12 ~~(b) The director shall revoke the special motor vehicle~~
13 ~~registration if any one of the conditions set forth in the~~
14 ~~application no longer exist.~~

15 ~~(c) The applicant shall be under an affirmative duty to~~
16 ~~report to the director any changes in the conditions to the~~
17 ~~special motor vehicle registration.~~

18 ~~(d) The director shall adopt rules, pursuant to~~
19 ~~chapter 91, necessary to carry out the purposes of this~~
20 ~~section."]~~

21 SECTION 23. Section 291E-49, Hawaii Revised Statutes, is
22 repealed.



1 ~~["§291E-49] Transferring title to, or ownership interest~~
2 ~~in, vehicle prohibited, exceptions.~~ (a) ~~A registered owner~~
3 ~~shall not sell or transfer title to, or ownership interest in, a~~
4 ~~motor vehicle during the time period the motor vehicle's~~
5 ~~registration has been ordered revoked and number plates~~
6 ~~surrendered or during the time the motor vehicle bears the~~
7 ~~special series number plates pursuant to section 249-9.4, unless~~
8 ~~the registered owner applies to the administrative director of~~
9 ~~the courts, or the administrative director's appointee pursuant~~
10 ~~to section 291E-1, for consent to transfer title to the motor~~
11 ~~vehicle. If the director is satisfied that:~~

12 ~~(1) The proposed sale is in good faith and for valid~~
13 ~~consideration;~~

14 ~~(2) The registered owner will be deprived of the custody~~
15 ~~and control of the motor vehicle; and~~

16 ~~(3) The sale is not for the purpose of circumventing this~~
17 ~~part,~~

18 ~~the director may consent to the sale or transfer. If the~~
19 ~~director consents, the director shall issue a certified copy of~~
20 ~~the written consent to the registered owner and forward a copy~~
21 ~~to the appropriate county director of finance.~~



1 ~~(b) The county director of finance, upon proper~~
2 ~~application and the presentation to the director of finance of a~~
3 ~~certified copy of the director's written consent to the sale or~~
4 ~~transfer of a motor vehicle, shall transfer the certificate of~~
5 ~~title and ownership to the new owner pursuant to chapter 286 and~~
6 ~~shall issue new number plates to the new registered owner~~
7 ~~pursuant to chapter 249.~~

8 ~~(c) Notwithstanding subsections (a) and (b), if the title~~
9 ~~to the motor vehicle is transferred by foreclosure of a chattel~~
10 ~~mortgage, cancellation of a conditional sales contract, a sale~~
11 ~~upon execution, or decree or order of a court of competent~~
12 ~~jurisdiction, after the motor vehicle registration has been~~
13 ~~revoked under this part, the county director of finance shall~~
14 ~~transfer the certificate of title and ownership to the new owner~~
15 ~~pursuant to chapter 286 and shall issue new number plates to the~~
16 ~~new registered owner pursuant to chapter 249."]~~

17 SECTION 24. This Act does not affect rights and duties
18 that matured, penalties that were incurred, and proceedings that
19 were begun before its effective date.

20 SECTION 25. If any provision of this Act, or the
21 application thereof to any person or circumstance is held
22 invalid, the invalidity does not affect other provisions or



S.B. NO. 2924

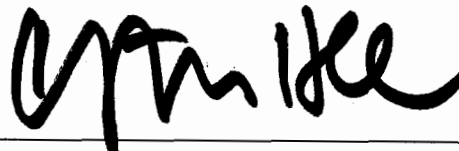
1 applications of the Act, which can be given effect without the
2 invalid provision or application, and to this end the provisions
3 of this Act are severable.

4 SECTION 26. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

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

7

INTRODUCED BY: _____



Report Title:

Ignition Interlock

Description:

Enacts recommendations of the ignition interlock implementation task force. Requires repeat intoxicated drivers to install ignition interlock devices in any vehicle they operate. Allows the return of motor vehicle registration number and plates to repeat intoxicated drivers arrested after December 31, 2011. Repeals the suspension or revocation of motor vehicle registration for repeat intoxicated drivers. Establishes procedures for lifetime revoked licenses to be reinstated. Repeals special series number plates and special motor vehicle registration.

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

