

JAN. 21 2011

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# 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, 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 2010; 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, 2010, 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 contact during the  
15 [~~seven~~] five years preceding the date of arrest, or  
16 three or more prior alcohol enforcement contacts or  
17 drug enforcement contact during the ten years  
18 preceding the date of arrest."
- 19 2. By repealing the definitions of "qualified household  
20 member", "temporary number plates", "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 later date as is established by the director  
15 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(e);~~



- 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 ~~eustody,~~] 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 to read as follows:

12 **"§291E-36 Documents required to be submitted for**  
13 **administrative review; sworn statements.** (a) Whenever a  
14 respondent has been arrested for a violation of section 291E-61  
15 or 291E-61.5 and submits to a test that establishes: the  
16 respondent's alcohol concentration was .08 or more; the  
17 presence, in the respondent's blood or urine, of any drug that  
18 is capable of impairing the respondent's ability to operate a  
19 vehicle in a careful and prudent manner; or whenever a  
20 respondent has been involved in a collision resulting in injury  
21 or death and a blood or urine test performed pursuant to section  
22 291E-21 establishes that the respondent's alcohol concentration



1 was .08 or more or establishes the presence in the respondent's  
2 blood or urine of any drug that is capable of impairing the  
3 respondent's ability to operate a vehicle in a careful and  
4 prudent manner, the following shall be forwarded immediately to  
5 the director:

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

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

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



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

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

8 (A) The equipment used to conduct the test was  
9 approved for use as an alcohol testing device in  
10 this State;

11 (B) The person had been trained and at the time the  
12 test was conducted was certified and capable of  
13 maintaining the testing equipment; and

14 (C) The testing equipment used had been properly  
15 maintained and was in good working condition when  
16 the test was conducted;

17 (3) In a case involving an alcohol related offense, the  
18 sworn statement of the person who conducted the test,  
19 stating facts that establish that, pursuant to section  
20 321-161 and rules adopted thereunder:



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



- 1 (C) The testing equipment used had been properly
- 2 maintained and was in good working condition when
- 3 the test was conducted;
- 4 (5) In a case involving a drug related offense, the sworn
- 5 statement of the person who conducted the test,
- 6 stating facts that establish that, pursuant to section
- 7 321-161 and rules adopted thereunder:
- 8 (A) At the time the test was conducted, the person
- 9 was trained and capable of operating the testing
- 10 equipment;
- 11 (B) The person followed the procedures established
- 12 for conducting the test;
- 13 (C) The equipment used to conduct the test functioned
- 14 in accordance with operating procedures and
- 15 indicated the presence of one or more drugs or
- 16 their metabolites in the respondent's blood or
- 17 urine; and
- 18 (D) The person whose blood or urine was tested is the
- 19 respondent;
- 20 (6) A copy of the notice of administrative revocation
- 21 issued by the law enforcement officer to the
- 22 respondent;



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

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

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

11           (1) A copy of the arrest report and the sworn statement of  
12            the arresting law enforcement officer, stating facts  
13            that establish that:

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

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

22            (C) The respondent was informed of:



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

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

17 **"§291E-37 Administrative review; procedures; decision.**

- 18 (a) The director automatically shall review the issuance of a
- 19 notice of administrative revocation and shall issue a written
- 20 decision administratively revoking the license and privilege to
- 21 operate a vehicle [~~, and motor vehicle registration if~~
- 22 ~~applicable,~~] or rescinding the notice of administrative





1 revocation. The written review decision shall be mailed to the  
2 respondent, or to the parent or guardian of the respondent if  
3 the respondent is under the age of eighteen, no later than:

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

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

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

17 (c) In conducting the administrative review, the director  
18 shall consider:

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

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



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

4           (d) The director shall administratively revoke the  
5           respondent's license and privilege to operate a vehicle if the  
6           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 ~~[(c) The director shall administratively revoke the  
9 registration of any vehicle owned or registered to the  
10 respondent and take custody of any number plates issued to the  
11 respondent if the director determines that the respondent is a  
12 repeat intoxicated driver and that:~~

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

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

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



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

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

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

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

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

19           ~~(g)]~~ (f) If the director administratively revokes the  
20           respondent's license and privilege to operate a vehicle, [~~and~~  
21           ~~motor vehicle registration if applicable,~~] the director shall  
22           mail a written review decision to the respondent, or to the



1 parent or guardian of the respondent if the respondent is under  
2 the age of eighteen. The written review decision shall:

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

4 (2) Indicate that the respondent has six days from the  
5 date the decision is mailed to request an  
6 administrative hearing to review the director's  
7 decision;

8 (3) Explain the procedure by which to request an  
9 administrative hearing;

10 (4) Be accompanied by a form, postage prepaid, that the  
11 respondent may fill out and mail in order to request  
12 an administrative hearing;

13 (5) Inform the respondent of the right to review and copy  
14 all documents considered at the review, including the  
15 arrest report and the sworn statements of law  
16 enforcement officers or other persons, prior to the  
17 hearing; and

18 (6) State that the respondent may be represented by  
19 counsel at the hearing, submit evidence, give  
20 testimony, and present and cross-examine witnesses,  
21 including the arresting law enforcement officer.



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

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

18           "**§291E-38 Administrative hearing; procedure; decision.**

19           (a) If the director administratively revokes the respondent's  
20 license and privilege to operate a vehicle [~~and motor vehicle~~  
21 ~~registration if applicable,~~] after the administrative review,  
22 the respondent may request an administrative hearing to review



1 the decision within six days of the date the administrative  
2 review decision is mailed. If the request for hearing is  
3 received by the director within six days of the date the  
4 decision is mailed, the hearing shall be scheduled to commence  
5 no later than:

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

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

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

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

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

20 (d) The director shall conduct the hearing and have  
21 authority to:

22 (1) Administer oaths and affirmations;



- 1 (2) Examine witnesses and take testimony;
- 2 (3) Receive and determine the relevance of evidence;
- 3 (4) Issue subpoenas;
- 4 (5) Regulate the course and conduct of the hearing;
- 5 (6) Impose up to the maximum license revocation period as
- 6 specified under section [~~291E-41(b);~~] 291E-41(b)(4);
- 7 and
- 8 (7) Make a final ruling.
- 9 (e) The director shall affirm the administrative
- 10 revocation only if the director determines that:
  - 11 (1) There existed 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 the
  - 15 person was tested pursuant to section 291E-21;
  - 16 (2) There existed probable cause to believe that the
  - 17 respondent operated the vehicle while under the
  - 18 influence of an intoxicant; and
  - 19 (3) The evidence proves by a preponderance that:
    - 20 (A) The respondent operated the vehicle while under
    - 21 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 ~~[(f) In addition to subsection (c), the director shall~~  
12 ~~affirm the administrative revocation of the registration of any~~  
13 ~~motor vehicle owned by or registered to the respondent only if~~  
14 ~~the director determines that the respondent is a repeat~~  
15 ~~intoxicated driver. If the director affirms the administrative~~  
16 ~~revocation pursuant to this subsection, the director shall order~~  
17 ~~the respondent to surrender the number plates and motor vehicle~~  
18 ~~registration of any motor vehicle owned by or registered to the~~  
19 ~~respondent. The director may destroy any number plates taken~~  
20 ~~into custody.~~

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



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

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

17           ~~[(j)]~~ (i) The director's decision shall be rendered in  
18 writing and mailed to the respondent, or to the parent or  
19 guardian of the respondent if the respondent is under the age of  
20 eighteen, no later than five days after the hearing is  
21 concluded. If the decision is to reverse the administrative  
22 revocation, the director shall return the respondent's license,



1 ~~[and if applicable, motor vehicle registration and any number~~  
2 ~~plates taken into custody,~~] along with a certified statement  
3 that administrative revocation proceedings have been terminated.  
4 If the decision sustains the administrative revocation, the  
5 director shall mail to the respondent a written decision  
6 indicating the duration of the administrative revocation and any  
7 other conditions or restrictions as may be imposed pursuant to  
8 section 291E-41.

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



1 or week. The absence from the hearing of a law enforcement  
2 officer or other person, upon whom personal service of a  
3 subpoena has been made as set forth in subsection [~~(h)~~], (g),  
4 constitutes good cause for a continuance.

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

9 ~~(1) The person is completely dependent on the motor~~  
10 ~~vehicle for the necessities of life; and~~

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

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

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



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

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

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

20 **"§291E-41 Effective date, conditions, and period of**  
21 **administrative revocation; criteria.** (a) Unless an  
22 administrative revocation is reversed or the temporary permit[7



1 ~~and temporary motor vehicle registration and temporary number~~  
2 ~~plates, if applicable, are]~~ is extended by the director,  
3 administrative revocation shall become effective on the day  
4 specified in the notice of administrative revocation. Except as  
5 provided in section 291E-44.5, no license and privilege to  
6 operate a vehicle shall be restored under any circumstances  
7 during the administrative revocation period. Upon completion of  
8 the administrative revocation period, the respondent may reapply  
9 and be reissued a license pursuant to section 291E-45.

10 (b) Except as provided in paragraph (5) and in section  
11 291E-44.5, the respondent shall keep an ignition interlock  
12 device installed and operating in any vehicle the respondent  
13 operates during the revocation period. Except as provided in  
14 section 291E-5, installation and maintenance of the ignition  
15 interlock device shall be at the respondent's [~~own~~] expense.

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

20 (1) A one year revocation of license and privilege to  
21 operate a vehicle, if the respondent's record shows no  
22 prior alcohol enforcement contact or drug enforcement



1 contact during the five years preceding the date the  
2 notice of administrative revocation was issued;

3 (2) An eighteen month revocation of license and privilege  
4 to operate a vehicle [~~and of the registration of any~~  
5 ~~motor vehicle registered to the respondent~~], if the  
6 respondent's record shows one prior alcohol  
7 enforcement contact or drug enforcement contact during  
8 the five years preceding the date the notice of  
9 administrative revocation was issued;

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

17 (4) A minimum of five years up to a maximum of ten years  
18 revocation of license and privilege to operate a  
19 vehicle [~~and of the registration of any motor vehicle~~  
20 ~~registered to the respondent~~], if the respondent's  
21 record shows three or more prior alcohol enforcement  
22 contacts or drug enforcement contacts during the ten



1 years preceding the date the notice of administrative  
2 revocation was issued;

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

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





1           (A) The respondent shall be absolutely prohibited  
2           from driving during the revocation period and  
3           subject to the penalties provided by section  
4           291E-62 if the respondent drives during the  
5           revocation period; and

6           (B) The director shall not issue an ignition  
7           interlock permit to the respondent pursuant to  
8           section 291E-44.5; .

9 provided that when more than one administrative revocation,  
10 suspension, or conviction arises out of the same arrest, it  
11 shall be counted as only one prior alcohol enforcement contact  
12 or drug enforcement contact, whichever revocation, suspension,  
13 or conviction occurs later.

14           ~~[(e) Whenever a motor vehicle registration is revoked~~  
15 ~~under this part, the director shall cause the revocation to be~~  
16 ~~entered electronically into the motor vehicle registration file~~  
17 ~~of the respondent.~~

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

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



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

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

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

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



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

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

6           "**§291E-42 Notice to other states.** When a nonresident's  
7 driving and boating privileges~~[, and motor vehicle registration~~  
8 ~~if applicable,]~~ are administratively revoked under this part,  
9 the director shall:

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

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

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



1           "§291E-44.5 Ignition interlock permits; driving for  
2 employment. (a) [~~(1)~~] Except as provided in [~~paragraph (2)~~],  
3 subsection (b), upon proof that the respondent has installed an  
4 ignition interlock device in [~~the respondent's vehicle,~~] any  
5 vehicle the respondent operates, the director shall issue an  
6 ignition interlock permit that will allow the respondent to  
7 drive a vehicle equipped with an ignition interlock device  
8 during the revocation period[~~;~~].

9           [~~(2)~~] (b) Notwithstanding any other law to the contrary,  
10 the director shall not issue an ignition interlock permit to:

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

14       [~~(B)~~]   (2) A respondent who does not hold a valid license at  
15                   the time of arrest for the violation of section 291E-  
16                   61; [~~or~~]

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

19       [~~(C)~~]   (4) A respondent who holds either a category 4  
20                   license under section 286-102(b) or a commercial  
21                   driver's license under section 286-239(b) unless the



1 ignition interlock permit is restricted to a category  
2 1, 2, or 3 license under section 286-102(b).

3 ~~[(b)(1)]~~ (c) Except as provided in subsection ~~[(a)(2)],~~  
4 (b) the director may issue a separate permit authorizing a  
5 respondent to operate a vehicle owned by the respondent's  
6 employer during the period of revocation without installation of  
7 an ignition interlock device if the respondent is gainfully  
8 employed in a position that requires driving and the respondent  
9 will be discharged if prohibited from driving a vehicle not  
10 equipped with an ignition interlock device.

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

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

19 ~~[(B)]~~ (2) A sworn statement from the respondent's employer  
20 establishing that the employer will, in fact,  
21 discharge the respondent if the respondent is  
22 prohibited from driving a vehicle not equipped with an



1 ignition interlock device and identifying the specific  
 2 vehicle and hours of the day the respondent will  
 3 drive, not to exceed twelve hours per day, for  
 4 purposes of employment.

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

- 7 (1) Only during specified hours of employment, not to
- 8 exceed twelve hours per day, and only for activities
- 9 solely within the scope of the employment;
- 10 (2) Only the vehicle specified; and
- 11 (3) Only if the permit is kept in the respondent's
- 12 possession while operating the employer's vehicle.

13 In addition, the director may impose other appropriate  
 14 restrictions."

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

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

- 21 (1) ~~[Submit proof to the director of compliance]~~ Comply  
 22 with all conditions imposed by the director;



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



- 1     ~~(3) Present the certified statement to the director of the~~
- 2         ~~appropriate county agency; and~~
- 3     ~~(4) Successfully complete each requirement, as provided in~~
- 4         ~~chapter 286, for obtaining a new certificate of~~
- 5         ~~registration for a motor vehicle in this State,~~
- 6         ~~including payment of all applicable fees.]"~~

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

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

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

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

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





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

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

12 "~~[+]§291E-68[+]~~ **Refusal to submit to a breath, blood, or**  
 13 **urine test; penalty.** [~~Refusal~~] Except as provided in section  
 14 291E-65, refusal to submit to a breath, blood, or urine test as  
 15 required by part II is a petty misdemeanor."

16 SECTION 20. Section 249-9.4, Hawaii Revised Statutes, is  
 17 repealed.

18 [~~§249-9.4 Special series number plates. A qualified~~  
 19 ~~household member, as defined in section 291E-1, or a co-owner of~~  
 20 ~~a motor vehicle owned by a respondent under part III of chapter~~  
 21 ~~291E, who has been granted a special motor vehicle registration~~  
 22 ~~under section 291E-48, shall apply to the appropriate county~~



1 ~~director of finance for special number plates that shall bear a~~  
2 ~~special series of numbers or letter so as to be readily~~  
3 ~~identifiable by law enforcement officers and readily~~  
4 ~~distinguishable from number plates or special number plates~~  
5 ~~issued under sections 249-9.1, 249-9.2, and 249-9.3. The~~  
6 ~~director of finance may issue the special series number plates~~  
7 ~~only if:~~

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

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

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



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

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

9 SECTION 22. Section 291E-48, Hawaii Revised Statutes, is  
10 repealed.

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

- 20 (1) ~~The applicant is a household member of the~~
- 21 ~~respondent's or a co-owner of the vehicle;~~



1       ~~(2) The applicant has a license that has not expired or~~  
2           ~~been suspended or revoked;~~

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

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

8       ~~(5) The respondent does not have a valid ignition~~  
9           ~~interlock permit.~~

10   ~~A person to whom a special motor vehicle registration has been~~  
11   ~~granted shall apply to the director of the appropriate county~~  
12   ~~agency for special series number plates, as provided in section~~  
13   ~~249-9.4.~~

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

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

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



1 SECTION 23. Section 291E-49, Hawaii Revised Statutes, is  
2 repealed.

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

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

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

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

20 ~~the director may consent to the sale or transfer. If the~~  
21 ~~director consents, the director shall issue a certified copy of~~



1 ~~the written consent to the registered owner and forward a copy~~  
2 ~~to the appropriate county director of finance.~~

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

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

19 SECTION 24. Act 171, Session Laws of Hawaii 2008, section  
20 12(g), as amended by Act 88, Session Laws of Hawaii 2009,  
21 section 12, is amended to read as follows:



1 "(g) The Hawaii ignition interlock implementation task  
2 force shall cease to exist after June 30, [~~2011.~~] 2012."

3 SECTION 25. This Act does not affect rights and duties  
4 that matured, penalties that were incurred, and proceedings that  
5 were begun before its effective date.

6 SECTION 26. If any provision of this Act, or the  
7 application thereof to any person or circumstance is held  
8 invalid, the invalidity does not affect other provisions or  
9 applications of the Act, which can be given effect without the  
10 invalid provision or application, and to this end the provisions  
11 of this Act are severable.

12 SECTION 27. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 28. This Act shall take effect on July 1, 2011;  
15 provided that section 24 shall take effect on June 29, 2011.

16

INTRODUCED BY:

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*Ann Hironaka Koe*  
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**Report Title:**

Ignition Interlock; Repeat Intoxicated Drivers

**Description:**

Clarifies recommendations of the ignition interlock implementation task force. 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. Makes housekeeping amendments to chapter 291E. Extends the expiration date of the ignition interlock implementation task force to 6/30/12.

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

