

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

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

SECTION 1. Section 286-254, Hawaii Revised Statutes, is amended by amending subsections (e) and (f) to read as follows:

“(e) The notice shall state that if the arrestee’s license is administratively revoked after the review, a decision shall be mailed to the arrestee containing, at a minimum, the following information:

- (1) The reasons why the arrestee’s license was administratively revoked;
- (2) That the arrestee may request the director, within [five] six days of the date the decision is mailed, to schedule an administrative hearing to review the administrative revocation;
- (3) That if the arrestee requests an administrative hearing within [five] six days, the hearing shall be scheduled to commence no later than twenty-five days after the date of arrest;
- (4) The procedure to request an administrative hearing;
- (5) That failure to request an administrative hearing within the time provided shall cause the administrative revocation to take effect for the period and under the conditions established by the director in the decision;
- (6) That the arrestee may regain the right to a hearing by requesting the director, within sixty days after the arrest, to schedule a hearing;
- (7) That the director shall schedule the hearing to commence no later than thirty days after the request is made but that the temporary permit shall not, in any event, be extended if the arrestee fails to request an administrative hearing within the initial [five-day] six-day period provided for that purpose;
- (8) That failure to attend the hearing shall cause the administrative revocation to take effect for the period and under the conditions indicated; and
- (9) The duration of the administrative revocation and other conditions which may be imposed, including alcohol counseling, alcohol treatment, and installation of an ignition interlock system.

(f) The notice shall provide, at a minimum, the following information relating to administrative hearings:

- (1) That the arrestee shall have [five] six days from the date the review decision was mailed to request that an administrative hearing be scheduled;
- (2) That a request for an administrative hearing shall entitle the arrestee to review and copy all documents considered at the review, including the arrest report and the sworn statements, prior to the hearing;
- (3) That the arrestee may be represented by an attorney, submit evidence, give testimony, and present and cross-examine witnesses; and
- (4) That a written decision shall be mailed no later than five days after completion of the hearing.”

SECTION 2. Section 286-258, Hawaii Revised Statutes, is amended by amending subsections (f) and (g) to read as follows:

“(f) If the director administratively revokes the arrestee’s driver’s license, the director shall mail to the arrestee a written decision stating the reasons for the

administrative revocation. The decision shall also indicate that the arrestee has [five] six days from the date the decision is mailed to request an administrative hearing to review the director's decision. The decision shall also explain the procedure by which to request an administrative hearing, and shall be accompanied by a form, postage prepaid, which the arrestee may fill out and mail in order to request an administrative hearing. The decision shall also inform the arrestee of the right to review and copy all documents considered at the review, including the arrest report and the sworn statements of the law enforcement officials, prior to the hearing. Further, the decision shall state that the arrestee may be represented by counsel at the hearing, submit evidence, give testimony, and present and cross-examine witnesses, including the arresting officer.

(g) Failure of the arrestee to request a hearing within the time provided in section 286-259(a) shall cause the administrative revocation to take effect for the period and under the conditions provided in the administrative review decision issued by the director under this section. The arrestee may regain the right to a hearing by requesting the director, within sixty days of the arrest, to schedule a hearing. The hearing shall be scheduled to commence no later than thirty days after the request is made. [In no event shall the temporary permit be extended if the arrestee fails to request a hearing within the initial five-day period provided for that purpose.] The administrative review decision issued by the director under this section shall clearly explain the consequences of failure to request an administrative hearing and the procedure by which the arrestee may regain the right to a hearing."

SECTION 3. Section 286-259, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) If the director administratively revokes the arrestee's license after administrative review, the arrestee may request an administrative hearing to review the decision within [five] six days of the date the administrative review decision is mailed. The hearing shall be scheduled to commence no later than twenty-five days from the date the notice of administrative revocation was issued. The director may continue the hearing only as provided in subsection (j)."

SECTION 4. Section 286-260, Hawaii Revised Statutes, is amended to read as follows:

"§286-260 Judicial review; procedure. (a) If the director sustains the administrative revocation after administrative hearing, the arrestee may file a petition for judicial review within thirty days after the administrative hearing decision is mailed. The petition shall be filed with the clerk of the district court in the district in which the offense occurred and shall be accompanied by the required filing fee for civil actions. The filing of the petition shall not operate as a stay of the administrative revocation nor shall the court stay the administrative revocation pending the outcome of the judicial review. The petition shall be appropriately captioned. The petition shall state with specificity the grounds upon which the petitioner seeks reversal of the administrative revocation.

(b) The court shall schedule the judicial review as quickly as practicable, and the review shall be on the record of the administrative hearing without taking of additional testimony or evidence. If the petitioner fails to appear without just cause, the court shall affirm the administrative revocation.

(c) The sole issues before the court shall be whether the director exceeded constitutional or statutory authority, erroneously interpreted the law, acted in an arbitrary or capricious manner, committed an abuse of discretion, or made a determination that was unsupported by the evidence in the record.

(d) The court shall not remand the matter back to the director for further proceedings consistent with its order.”

SECTION 5. Section 286-264, Hawaii Revised Statutes is amended by amending subsection (a) to read as follows:

“(a) If an arrestee subject to administrative revocation under this part submitted to a breath or blood test and has had no prior alcohol enforcement contacts[,] during the five years preceding the date of arrest, the director [may], at the request of the arrestee at the administrative hearing, may issue a conditional permit allowing the arrestee to drive after a minimum period of absolute license revocation of thirty days if one or more of the following conditions are met:

- (1) The arrestee is gainfully employed in a position that requires driving and will be discharged if the arrestee’s driving privileges are administratively revoked; or
- (2) The arrestee has no access to alternative transportation and therefore must drive to work or to a substance abuse treatment facility or counselor for treatment ordered by the director under section 286-261.”

SECTION 6. Section 286-266, Hawaii Revised Statutes, is amended to read as follows:

“**[[§286-266[]] Computation of time.** The time in which any act provided in this part is to be done is computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or holiday, and then it is also excluded.”

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

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 1996.

(Approved June 18, 1996.)