



GOV. MSG. NO. 1042

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 10, 2007

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith SB946 SD2 HD1 CD1, without my approval, and with the statement of objections relating to the measure.

SB946 SD2 HD1 CD1

A BILL FOR AN ACT RELATING TO
ADMINISTRATIVE LICENSE REVOCATION.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 946, entitled "A Bill for an Act Relating to Administrative License Revocation," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 946 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 946 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 25th
day of June, 2007.



LINDA LINGLE
Governor of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2007

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 946

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 946, entitled "A Bill for an Act Relating to Administrative License Revocation."

The purpose of this bill is to permit persons who have had their driver's licenses administratively revoked for life, for repeatedly driving while intoxicated, to request and obtain a reinstatement of the license if: (1) ten years or more have passed since the revocation; (2) the person obtains certification that the person is not in need of substance abuse treatment; and (3) since the revocation, the person has not been arrested, convicted, or adjudicated for any traffic infraction.

This bill is objectionable because it will reduce the deterrent impact of the lifetime revocation provision and allow these high-risk offenders back on the roads, jeopardizing public safety. An individual is not subjected to a lifetime revocation unless he or she has been convicted of driving while intoxicated four times within a ten-year period. The lifetime revocation is not imposed suddenly or without warning. An individual subjected to a lifetime revocation has been arrested, put through the court process, and faced a judge at sentencing at least three times before receiving the lifetime suspension. History has shown that this individual did not benefit from the numerous court proceedings and sentencing provisions, which could have included

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periods of incarceration. This individual poses a high risk of danger to himself or herself and others on the road.

Another concern is that the bill could be interpreted to allow a reinstated driver to get three subsequent convictions for driving while intoxicated, and still avoid another lifetime revocation.

The bill does not have sufficient safeguards to prevent habitually intoxicated drivers who have had a lifetime revocation of their driver's license from driving under the influence again. To be eligible for relicensing, the bill only requires that an applicant have a recent certification (within ninety days) that the applicant is not in need of substance abuse treatment, and that the applicant has not been arrested, convicted, or adjudicated for any traffic infraction while the applicant's license was revoked. Neither of these requirements will prevent the relicensing of a person with current alcohol abuse problems.

The lifetime revocation provision has been part of Hawaii law since 1991. Prior to the 2000 legislative session, this provision was reviewed and made a part of a new comprehensive bill on impaired driving. Act 189, Session Laws of Hawaii 2000, included the enactment of chapter 291E, Use of Intoxicants While Operating a Vehicle. Chapter 291E was the result of a comprehensive effort to address the serious problem of impaired driving by the Department of Transportation and the Governor's Highway Safety Council Impaired Driving Task Force. The task force, made up of over seventy-five individuals and organizations from around the State, including but not limited to police, prosecutors, defense attorneys, judiciary representatives, the administrative driver's license revocation

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office, and emergency room physicians, undertook a comprehensive review of Hawaii's impaired driving laws and proposed to retain the lifetime revocation of driver's license provision in the law.

For the foregoing reasons, I am returning Senate Bill No. 946 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO ADMINISTRATIVE LICENSE REVOCATION.

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

1 SECTION 1. Chapter 291E, Hawaii Revised Statutes, is
2 amended by adding a new subpart to part III to read as follows:
3 **"B. Eligibility for Driving Privileges Following**
4 **Lifetime Revocation**
5 **§291E-A Eligibility to apply for new driver's license**
6 **after lifetime revocation.** A respondent whose license has been
7 administratively revoked for life pursuant to section 291E-41 or
8 under provisions of sections 286-251 to 286-266 of part XIV of
9 chapter 286 that were repealed on January 1, 2002, may apply in
10 writing to the director for consent to apply for a new driver's
11 license as provided under this part. A respondent whose
12 driver's license has been revoked for a lifetime more than once
13 shall not be eligible to apply for new driver's license under
14 this part.
15 **§291E-B Application procedures.** The application for
16 consent from the director to apply for a new driver's license
17 shall:



- 1 (1) Be made not sooner than ten years from the date of
2 issuance of the lifetime revocation by the
3 administrative driver's license revocation office;
- 4 (2) Be accompanied by written proof that the respondent,
5 within the ninety days immediately preceding the date
6 the application is received by the administrative
7 driver's license revocation office, has been assessed
8 by a certified substance abuse counselor who has
9 determined that the respondent is not in need of
10 substance abuse treatment due to dependency or abuse
11 under the applicable Diagnostic and Statistical Manual
12 and Addiction Severity Index or its successor;
13 provided that the assessment shall be submitted with
14 the application; and provided further that the costs
15 of the assessment shall be borne by the respondent;
16 and
- 17 (3) The application shall be in a form of a sworn
18 statement approved by the director; provided that the
19 sworn statement shall contain information that
20 demonstrates that the respondent no longer poses a
21 real and serious danger to the safety and welfare of
22 the people of this State.



1 **§291E-C Denial of application.** The application shall be
2 summarily denied if:

3 (1) The application does not meet all of the requirements
4 of section 291E-B; and

5 (2) After the issuance of the lifetime revocation, the
6 respondent has been arrested, convicted, or
7 adjudicated for any traffic infraction or a similar
8 infraction in another jurisdiction; provided that the
9 administrative driver's license revocation office may
10 retrieve and consider information available from any
11 judiciary computer system, problem driver pointer
12 system or its successor system, national database
13 record or its successor, or similar federal, state, or
14 county database retrieval system that allows access by
15 authorized agencies.

16 **§291E-D Fee.** There shall be assessed a fee to process the
17 application for reinstatement of license in the amount of \$50.

18 **§291E-E Final administrative decision.** The decision of
19 the director pursuant to this part shall be final; provided that
20 the respondent may seek judicial review of a denial by the
21 director under section 291E-40. If the court reverses the
22 decision of the director, the respondent shall be deemed
23 eligible to apply for a new license; provided that the court



1 order of reversal shall state that the respondent is eligible to
2 apply for a new driver's license."

3 SECTION 2. Section 291E-41, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Unless an administrative revocation is reversed or
6 the temporary permit, and temporary motor vehicle registration
7 and temporary number plates if applicable, are extended by the
8 director, administrative revocation shall become effective on
9 the day specified in the notice of administrative revocation.
10 Except as provided in section 291E-44[7] or 291E-A, no license
11 and privilege to operate a vehicle, nor motor vehicle
12 registration and number plates if applicable, shall be restored
13 under any circumstances, and no conditional license permit shall
14 be issued during the administrative revocation period. Upon
15 completion of the administrative revocation period, the
16 respondent may reapply and be reissued a license pursuant to
17 section 291E-45."

18 SECTION 3. Chapter 291E, Hawaii Revised Statutes, is
19 amended by designating sections 291E-31 to 291E-50 as subpart A,
20 entitled:

21 "A. General Provisions"

22 SECTION 4. In codifying the provisions of section 1 of
23 this Act, the revisor of statutes shall substitute appropriate



1 section numbers for the letter designations used in that
2 section.

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

5 SECTION 6. This Act shall take effect on July 1, 2008.



