

JAN 25 2023

A BILL FOR AN ACT

RELATING TO COMMERCIAL DRIVER LICENSING.

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

1 SECTION 1. Section 286-240, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§286-240 Disqualification, cancellation, and
4 downgrade. (a) The examiner of drivers shall disqualify any
5 person from driving a commercial motor vehicle for a period of
6 no less than one year if convicted of a first violation of:

7 (1) Driving a motor vehicle under the influence of
8 alcohol, a controlled substance, or any drug that
9 impairs driving ability;

10 (2) Driving a commercial motor vehicle while the alcohol
11 concentration of the driver's blood is 0.04 or more
12 grams of alcohol per two hundred ten liters of breath
13 or 0.04 or more grams of alcohol per one hundred
14 milliliters or cubic centimeters of blood;

15 (3) Refusing to submit to a test to determine the driver's
16 alcohol concentration while driving a motor vehicle as
17 required under sections 286-243 and 291E-11;

18 (4) Using a motor vehicle in the commission of any felony;

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- 1 (5) Leaving the scene of an accident involving the motor
2 vehicle driven by the person;
- 3 (6) Unlawful transportation, possession, or use of a
4 controlled substance while on duty;
- 5 (7) Driving a commercial motor vehicle when, as a result
6 of prior violations committed while operating a
7 commercial motor vehicle, the driver's commercial
8 driver's license or commercial learner's permit is
9 revoked, suspended, or canceled, or the driver is
10 otherwise disqualified from operating a commercial
11 motor vehicle; or
- 12 (8) Causing a fatality through the operation of a
13 commercial motor vehicle, including through the
14 commission of the crimes of manslaughter and negligent
15 homicide in any degree.
- 16 (b) The examiner of drivers shall disqualify any person
17 for a period of no less than three years for any conviction of a
18 violation of any offense listed in subsection (a) that is
19 committed while a hazardous material required to be placarded
20 under title 49 Code of Federal Regulations, part 172, subpart F,
21 is being transported.

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1 (c) The examiner of drivers shall disqualify any person
2 from driving a commercial motor vehicle for life if the person
3 is convicted two or more times for any of the offenses listed in
4 subsection (a).

5 (d) The examiner of drivers shall disqualify any person
6 from driving a commercial motor vehicle for life if the person
7 uses a motor vehicle in the commission of any felony involving
8 the manufacturing, distributing, or dispensing of a controlled
9 substance, or possession with intent to manufacture, distribute,
10 or dispense a controlled substance.

11 (e) The examiner of drivers shall disqualify any person
12 from driving a commercial motor vehicle for a period of no less
13 than sixty days if the person is convicted of two serious
14 traffic violations, or one hundred twenty days if the person is
15 convicted of three serious traffic violations; provided that the
16 violations are committed in a commercial motor vehicle and arise
17 from separate incidents occurring within a three-year
18 period. The one hundred twenty-day disqualification period
19 required for a third conviction within three years of a serious
20 traffic violation, as defined in section 286-231, shall be in
21 addition to any other previously imposed period of
22 disqualification. The disqualification periods specified in

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1 this subsection shall also apply to offenses committed while
2 operating a noncommercial motor vehicle only if the conviction
3 for the offense results in the revocation, cancellation, or
4 suspension of the driver's license.

5 (f) The examiner of drivers shall disqualify any person
6 from driving a commercial motor vehicle or from resubmitting an
7 application for a period of no less than sixty days if the
8 examiner of drivers finds that a commercial driver's license or
9 a commercial learner's permit holder or applicant for a
10 commercial driver's license or commercial learner's permit has
11 falsified information or failed to report or disclose required
12 information either before or after issuance of a commercial
13 driver's license or a commercial learner's permit.

14 (g) If the examiner of drivers receives credible
15 information that a commercial driver's license or commercial
16 learner's permit holder is suspected, but has not been
17 convicted, of fraud related to the issuance of the commercial
18 driver's license or commercial learner's permit, the examiner of
19 drivers shall require the driver to re-take the skills or
20 knowledge tests, or both. Within thirty days of receiving
21 notification from the examiner of drivers that re-testing is
22 necessary, the affected commercial driver's license or

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1 commercial learner's permit holder shall make an appointment or
2 otherwise schedule to take the next available test:

3 (1) If the commercial driver's license or commercial
4 learner's permit holder fails to make an appointment
5 within thirty days, the examiner of drivers shall
6 disqualify the commercial driver's license or
7 commercial learner's permit indefinitely until the
8 applicant reapplies;

9 (2) If the driver fails either the knowledge or skills
10 test or does not take the test, the examiner of
11 drivers shall disqualify the commercial driver's
12 license or commercial learner's permit indefinitely
13 until the applicant reapplies. Once a commercial
14 driver's license or commercial learner's permit
15 holder's commercial driver's license or commercial
16 learner's permit has been disqualified, the driver or
17 learner shall reapply for a commercial driver's
18 license or commercial learner's permit under state
19 procedures
20 applicable to all commercial driver's license or
21 commercial learner's permit applicants.

22 (h) The examiner of drivers shall invalidate the

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1 commercial driver's license or commercial learner's permit of a
2 person who has been convicted of fraud relating to the issuance
3 of that commercial driver's license or commercial learner's
4 permit, as well as the application of a person so convicted who
5 seeks to renew, transfer, or upgrade the fraudulently obtained
6 commercial driver's license or commercial learner's permit for a
7 period of not less than one year.

8 ~~(g)~~ (i) The examiner of drivers shall disqualify any
9 person from driving a commercial motor vehicle for a period of
10 no less than one hundred eighty days and no more than one year
11 for a first violation, for at least two years and no more than
12 five years for a second violation, and at least three years and
13 no more than five years for a third or subsequent violation of a
14 driver or vehicle out-of-service order committed in a commercial
15 motor vehicle transporting non-hazardous materials arising from
16 separate incidents occurring within a ten-year period.

17 ~~(h)~~ (j) The examiner of drivers shall disqualify any
18 person from driving a commercial motor vehicle for a period of
19 no less than one hundred eighty days and no more than two years
20 for a first violation and for at least three years and no more
21 than five years for any subsequent violation of a driver or
22 vehicle out-of-service order committed in a commercial motor

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1 vehicle transporting hazardous materials required to be
2 placarded under title 49 Code of Federal Regulations, part 172,
3 subpart F, or designed to transport sixteen or more occupants
4 including the driver; provided that each violation arises from
5 separate incidents occurring within a ten-year period.

6 ~~(i)~~ (k) The examiner of drivers shall disqualify any
7 person from driving a commercial motor vehicle for a period of
8 no less than sixty days if the person is convicted of a first
9 violation, no less than one hundred twenty days if the person is
10 convicted of a second violation during any three-year period,
11 and no less than one year if the person is convicted of a third
12 or subsequent violation during any three-year period of a
13 federal, state, or local law or regulation pertaining to one of
14 the following six offenses at a railroad-highway grade crossing:

15 (1) For all drivers who are not required to always stop,
16 failing to slow down and check that the tracks are
17 clear of an approaching train;

18 (2) For all drivers who are not required to always stop,
19 failing to stop before reaching the crossing, if the
20 tracks are not clear;

21 (3) For all drivers who are always required to stop,
22 failing to stop before driving onto the crossing;

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1 (4) For all drivers, failing to have sufficient space to
2 drive completely through the crossing without
3 stopping;

4 (5) For all drivers, failing to obey a traffic control
5 device or the directions of an enforcement official at
6 the crossing; or

7 (6) For all drivers, failing to negotiate a crossing
8 because of insufficient undercarriage clearance.

9 [~~(j)~~] (l) The examiner of drivers shall disqualify any
10 person from driving a commercial motor vehicle if the driver's
11 driving is determined to constitute an imminent hazard, as
12 defined in section 286-231 and in accordance with the provisions
13 of title 49 Code of Federal Regulations section 383.52.

14 [~~(k)~~] (m) Beginning January 30, 2014, if a driver fails to
15 provide the examiner of drivers with the certification required
16 under title 49 Code of Federal Regulations section 383.71(b)(1)
17 or a current medical examiner's certificate if the driver self-
18 certifies according to title 49 Code of Federal Regulations
19 section 383.71(b)(1)(i) that the driver is operating in non-
20 excepted interstate commerce as required by title 49 Code of
21 Federal Regulations section 383.71(h), the examiner of drivers
22 shall mark the commercial driver's license information system

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1 driver record as not-certified and initiate a commercial
2 driver's license downgrade.

3 ~~(1)~~ (n) The examiner of drivers shall permanently
4 disqualify any person from driving a commercial motor vehicle
5 for life without the possibility of reinstatement, if the person
6 uses a commercial motor vehicle in the commission of any felony
7 involving severe forms of trafficking in persons.

8 ~~(m)~~ (o) As used in this section:

9 "Commercial sex act" means any sex act on account of which
10 anything of value is given to or received by any person.

11 "Severe forms of trafficking in persons" means either sex
12 trafficking in which a commercial sex act is induced by force,
13 fraud, or coercion, or in which the person induced to perform
14 such act has not attained eighteen years of age; or the
15 recruitment, harboring, transportation, provision, obtaining,
16 patronizing, or soliciting of a person for the purpose of a
17 commercial sex act; or the recruitment, harboring,
18 transportation, provision, or obtaining of a person for labor or
19 services, through the use of force, fraud, or coercion for the
20 purpose of subjection to involuntary servitude, peonage, debt
21 bondage, or slavery."

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1 SECTION 2. Section 286-249, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) A driver who is convicted of violating an out-of-
4 service order shall be fined not less than \$2,500 nor more than
5 \$4,000 for a first conviction and not less than \$5,000 nor more
6 than \$7,500 for a second or subsequent conviction, in addition
7 to the driving disqualification of subsection (a)(1) and section
8 [~~286-240(g)~~] 286-240(i) and [~~(h)~~] (j)."

9 SECTION 3. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

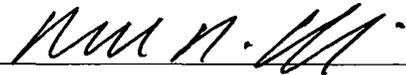
11 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:



15

BY REQUEST

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Report Title:

Commercial Driver Licensing; Commercial Learner's Permit;
Commercial Driver's Licenses

Description:

Meets federal requirements on fraudulent activity relating to
Commercial Learner's Permits (CLP) and Commercial Driver's
Licenses (CDL).

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

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JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVER LICENSING.

PURPOSE: To meet federal requirements on fraudulent activity relating to Commercial Learner's Permits (CLP) and Commercial Driver's Licenses (CDL).

MEANS: Amend sections 286-240 and 286-249(b), Hawaii Revised Statutes.

JUSTIFICATION: The Hawaii Department of Transportation is required by the Federal Motor Carrier Administration pursuant to 49 C.F.R. §383.73(k)(2) to have policies in effect that result, at minimum, in the disqualification of the CLP or CDL for applicants who are suspected of fraud related to the testing and issuance of that CLP or CDL.

Impact on the public: None.

Impact on the department and other agencies: None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: TRN 597.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.