

S.B. NO. 3181

JAN 24 2024

A BILL FOR AN ACT

RELATING TO COMMERCIAL DRIVER'S LICENSES.

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

1 SECTION 1. Beginning November 18, 2024, the examiner of
2 drivers shall not issue, renew, transfer, or upgrade a
3 commercial driver's license, renew the Hazmat endorsement, or
4 issue, renew, or upgrade a commercial learner's permit, if the
5 results of a query to the Federal Motor Carrier Safety
6 Administration's Drug and Alcohol Clearinghouse is that the
7 driver is prohibited from operating a commercial motor vehicle.

8 Additionally, when a commercial learner's permit or
9 commercial's license holder is prohibited from operating a
10 commercial motor vehicle, the examiner of drivers shall initiate
11 a commercial driver's license downgrade and comply with the
12 procedures set forth in title 49 Code of Federal Regulations
13 section 383.73(q).

14 The purpose of this Act is to amend sections 286-236 and
15 286-240, Hawaii Revised Statutes, to meet these new federal
16 requirements.

17 SECTION 2. Section 286-236, Hawaii Revised Statutes, is
18 amended to read as follows:

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1 "§286-236 Commercial driver's license qualification
2 standards. (a) No person shall be issued a commercial driver's
3 license unless that person:

4 (1) Meets the qualification standards of title 49 Code of
5 Federal Regulations, part 391, subparts B and E;

6 (2) Has passed a knowledge and driving skills test for
7 driving a commercial motor vehicle that complies with
8 minimum federal standards established by federal
9 regulation enumerated in title 49 Code of Federal
10 Regulations, part 383, subparts G and H;

11 (3) Is domiciled in this State as defined in title 49 Code
12 of Federal Regulations, part 383.5; and

13 (4) Has satisfied all other requirements of the Commercial
14 Motor Vehicle Safety Act of 1986, Public Law 99-570,
15 title XII, in addition to other requirements imposed
16 by state law or federal regulation.

17 The tests shall be prescribed by the director and administered
18 by the respective county examiner of drivers. The test
19 examiners shall communicate with the applicant only in English
20 during the skills test. As of January 30, 2012, the examiner of
21 drivers shall verify that the medical certification status of a
22 driver who self-certified according to title 49 Code of Federal

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1 Regulations section 383.71(b)(1)(i), non-excepted interstate, is
2 certified. If a driver submits a current medical examiner's
3 certificate, the examiner of drivers shall date-stamp the
4 certificate and post all required information to the commercial
5 driver's license information system pursuant to title 49 Code of
6 Federal Regulations section 383.73(b)(5) and in accordance with
7 title 49 Code of Federal Regulations section 383.73(o). A
8 person who is not physically qualified to drive under title 49
9 Code of Federal Regulations section 391.41(b)(1) or (2) and who
10 is otherwise qualified to drive a motor vehicle may be granted
11 an intrastate waiver by the director. The process for granting
12 intrastate waivers shall be the same as that for interstate
13 waivers in title 49 Code of Federal Regulations section 391.49,
14 except that the intrastate waiver requests shall be submitted to
15 the director.

16 (b) The examiner of drivers may waive the driving skills
17 test specified in this section for a commercial driver's license
18 applicant who meets the requirements of title 49 Code of Federal
19 Regulations section 383.77 or 383.123(b).

20 (c) A commercial driver's license or commercial learner's
21 permit, including a provisional or temporary license or permit,
22 shall not be issued to a person while the person is subject to a

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1 disqualification from driving a commercial motor vehicle, or
2 while the person's driver's license is suspended, revoked, or
3 canceled in any state; or while the person holds a driver's
4 license issued by any other state unless the person first
5 surrenders that license.

6 (d) A commercial learner's permit may be issued to an
7 individual who holds a valid driver's license, is at least
8 eighteen years of age, meets the qualification standards of
9 title 49 Code of Federal Regulations, part 391, subparts B and
10 E, and has passed the written tests required for the desired
11 class of a commercial driver's license.

12 (e) The commercial learner's permit shall not be valid for
13 a period in excess of one hundred eighty days from the date that
14 the applicant passes the general and all required endorsement
15 knowledge tests; provided that, if the applicant is not required
16 to take a knowledge test, the period shall start when the permit
17 is issued. When driving a commercial motor vehicle, the holder
18 of a commercial learner's permit shall be accompanied by a
19 person with a valid commercial driver's license to operate that
20 category of commercial motor vehicle with the proper
21 endorsements. The licensed person shall occupy the seat beside
22 the individual for the purpose of giving instruction in driving

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1 the commercial motor vehicle. The commercial learner's permit
2 may be renewed no more than an additional one hundred eighty
3 days without requiring the commercial learner's permit holder to
4 retake the general or endorsement knowledge tests, and the
5 applicant requalifies meeting the requirements of subsection
6 (d). The commercial learner's permit holder is eligible to take
7 the commercial driver's license skills test no earlier than
8 fourteen days after obtaining the permit.

9 (f) The examiner of drivers may waive the knowledge and
10 skills tests specified in this section for any person who is at
11 least twenty-one years of age and who possesses a valid
12 commercial driver's license issued by any state of the United
13 States, Mexico, or a province of Canada that issues licenses in
14 accordance with the minimum federal standards for the issuance
15 of commercial driver's licenses. The examiner of drivers shall
16 accept the test scores of a Hawaii commercial learner's permit
17 holder who completes training in another state in the United
18 States and is tested in compliance with federal motor carrier
19 safety regulations by that state in association with the
20 training. The testing state shall electronically transmit in a
21 secure manner the skills test results directly to the examiner
22 of drivers, and if the applicant passed, and meets all other

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1 requirements, a Hawaii commercial driver's license shall be
2 issued. To retain a hazardous materials endorsement, the
3 applicant shall pass the knowledge test for a hazardous
4 materials endorsement and be determined by the federal
5 Transportation Security Administration not to pose a security
6 risk warranting denial of the endorsement.

7 (g) Every applicant shall successfully complete the
8 commercial driver's license general knowledge test before being
9 issued a commercial learner's permit. A driver holding a valid
10 commercial driver's license who seeks an upgrade for which a
11 skills test is required shall also pass the appropriate
12 knowledge test before obtaining a commercial learner's
13 permit. Beginning February 7, 2022, except for a driver holding
14 a valid commercial learner's permit or commercial driver's
15 license that was obtained before February 7, 2022, every
16 applicant shall complete the entry-level driver training
17 requirements as specified in title 49 Code of Federal
18 Regulations part 380, subpart F, and be verified with the
19 Federal Motor Carrier Safety Administration Training Provider
20 Registry before taking the skills test for a class A or class B
21 commercial driver's license, passenger endorsement, or school

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1 bus endorsement, and before taking the knowledge test for a
2 hazardous materials endorsement.

3 (h) Beginning November 18, 2024, the examiner of drivers
4 shall not issue, renew, transfer, or upgrade a commercial
5 driver's license, renew the Hazmat endorsement, or issue, renew,
6 or upgrade a commercial learner's permit, if the results of a
7 query to the Federal Motor Carrier Safety Administration's Drug
8 and Alcohol Clearinghouse is that the driver is prohibited from
9 operating a commercial motor vehicle."

10 SECTION 3. Section 286-240, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§286-240 Disqualification, cancellation, and**
13 **downgrade.** (a) The examiner of drivers shall disqualify any
14 person from driving a commercial motor vehicle for a period of
15 no less than one year if convicted of a first violation of:

16 (1) Driving a motor vehicle under the influence of
17 alcohol, a controlled substance, or any drug that
18 impairs driving ability;

19 (2) Driving a commercial motor vehicle while the alcohol
20 concentration of the driver's blood is 0.04 or more
21 grams of alcohol per two hundred ten liters of breath

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- 1 or 0.04 or more grams of alcohol per one hundred
2 milliliters or cubic centimeters of blood;
- 3 (3) Refusing to submit to a test to determine the driver's
4 alcohol concentration while driving a motor vehicle as
5 required under sections 286-243 and 291E-11;
- 6 (4) Using a motor vehicle in the commission of any felony;
- 7 (5) Leaving the scene of an accident involving the motor
8 vehicle driven by the person;
- 9 (6) Unlawful transportation, possession, or use of a
10 controlled substance while on duty;
- 11 (7) Driving a commercial motor vehicle when, as a result
12 of prior violations committed while operating a
13 commercial motor vehicle, the driver's commercial
14 driver's license or commercial learner's permit is
15 revoked, suspended, or canceled, or the driver is
16 otherwise disqualified from operating a commercial
17 motor vehicle; or
- 18 (8) Causing a fatality through the operation of a
19 commercial motor vehicle, including through the
20 commission of the crimes of manslaughter and negligent
21 homicide in any degree.

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1 (b) The examiner of drivers shall disqualify any person
2 for a period of no less than three years for any conviction of a
3 violation of any offense listed in subsection (a) that is
4 committed while a hazardous material required to be placarded
5 under title 49 Code of Federal Regulations, part 172, subpart F,
6 is being transported.

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

11 (d) The examiner of drivers shall disqualify any person
12 from driving a commercial motor vehicle for life if the person
13 uses a motor vehicle in the commission of any felony involving
14 the manufacturing, distributing, or dispensing of a controlled
15 substance, or possession with intent to manufacture, distribute,
16 or dispense a controlled substance.

17 (e) The examiner of drivers shall disqualify any person
18 from driving a commercial motor vehicle for a period of no less
19 than sixty days if the person is convicted of two serious
20 traffic violations, or one hundred twenty days if the person is
21 convicted of three serious traffic violations; provided that the
22 violations are committed in a commercial motor vehicle and arise

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1 from separate incidents occurring within a three-year
2 period. The one hundred twenty-day disqualification period
3 required for a third conviction within three years of a serious
4 traffic violation, as defined in section 286-231, shall be in
5 addition to any other previously imposed period of
6 disqualification. The disqualification periods specified in
7 this subsection shall also apply to offenses committed while
8 operating a noncommercial motor vehicle only if the conviction
9 for the offense results in the revocation, cancellation, or
10 suspension of the driver's license.

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

20 (g) If the examiner of drivers receives credible
21 information that a commercial driver's license or commercial
22 learner's permit holder is suspected, but has not been

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1 convicted, of fraud related to the issuance of the commercial
2 driver's license or commercial learner's permit, the examiner of
3 drivers shall require the driver to re-take the skills or
4 knowledge tests or both. Within thirty days of receiving
5 notification from the examiner of drivers that re-testing is
6 necessary, the affected commercial driver's license or
7 commercial learner's permit holder shall make an appointment or
8 otherwise schedule to take the next available test:

9 (1) If the commercial driver's license or commercial
10 learner's permit holder fails to make an appointment
11 within thirty days, the examiner of drivers shall
12 disqualify the commercial driver's license or
13 commercial learner's permit indefinitely until the
14 applicant reapplies; or

15 (2) If the driver fails either the knowledge or skills
16 test or does not take the test, the examiner of
17 drivers shall disqualify the commercial driver's
18 license or commercial learner's permit indefinitely
19 until the applicant reapplies. Once a commercial
20 driver's license or commercial learner's permit
21 holder's commercial driver's license or commercial
22 learner's permit has been disqualified, the driver or

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1 learner shall reapply for a commercial driver's license
2 or commercial learner's permit under state procedures
3 applicable to all commercial driver's license or
4 commercial learner's permit applicants.

5 (h) The examiner of drivers shall invalidate the
6 commercial driver's license or commercial learner's permit of a
7 person who has been convicted of fraud relating to the issuance
8 of that commercial driver's license or commercial learner's
9 permit, as well as the application of a person so convicted who
10 seeks to renew, transfer, or upgrade the fraudulently obtained
11 commercial driver's license or commercial learner's permit for a
12 period of not less than one year.

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

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1 (j) The examiner of drivers shall disqualify any person
2 from driving a commercial motor vehicle for a period of no less
3 than one hundred eighty days and no more than two years for a
4 first violation and for at least three years and no more than
5 five years for any subsequent violation of a driver or vehicle
6 out-of-service order committed in a commercial motor vehicle
7 transporting hazardous materials required to be placarded under
8 title 49 Code of Federal Regulations, part 172, subpart F, or
9 designed to transport sixteen or more occupants including the
10 driver; provided that each violation arises from separate
11 incidents occurring within a ten-year period.

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

21 (1) For all drivers who are not required to always stop,
22 failing to slow down and check that the tracks are

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- 1 clear of an approaching train;
- 2 (2) For all drivers who are not required to always stop,
3 failing to stop before reaching the crossing, if the
4 tracks are not clear;
- 5 (3) For all drivers who are always required to stop,
6 failing to stop before driving onto the crossing;
- 7 (4) For all drivers, failing to have sufficient space to
8 drive completely through the crossing without
9 stopping;
- 10 (5) For all drivers, failing to obey a traffic control
11 device or the directions of an enforcement official at
12 the crossing; or
- 13 (6) For all drivers, failing to negotiate a crossing
14 because of insufficient undercarriage clearance.
- 15 (1) The examiner of drivers shall disqualify any person
16 from driving a commercial motor vehicle if the driver's driving
17 is determined to constitute an imminent hazard, as defined in
18 section 286-231 and in accordance with the provisions of title
19 49 Code of Federal Regulations section 383.52.
- 20 ~~[(m) Beginning January 30, 2014, if a driver fails to~~
21 ~~provide the examiner of drivers with the certification required~~
22 ~~under title 49 Code of Federal Regulations section 383.71(b)(1)~~

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1 ~~or a current medical examiner's certificate if the driver self-~~
2 ~~certifies according to title 49 Code of Federal Regulations~~
3 ~~section 383.71(b)(1)(i) that the driver is operating in non-~~
4 ~~excepted interstate commerce as required by title 49 Code of~~
5 ~~Federal Regulations section 383.71(h), the examiner of drivers~~
6 ~~shall mark the commercial driver's license information system~~
7 ~~driver record as not certified and initiate a commercial~~
8 ~~driver's license downgrade.~~

9 ~~(n)]~~ (m) The examiner of drivers shall permanently
10 disqualify any person from driving a commercial motor vehicle
11 for life without the possibility of reinstatement, if the person
12 uses a commercial motor vehicle in the commission of any felony
13 involving severe forms of trafficking in persons.

14 ~~(o)]~~ (n) As used in this section:

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

17 "Severe forms of trafficking in persons" means either sex
18 trafficking in which a commercial sex act is induced by force,
19 fraud, or coercion, or in which the person induced to perform
20 the act has not attained eighteen years of age; or the
21 recruitment, harboring, transportation, provision, obtaining,
22 patronizing, or soliciting of a person for the purpose of a

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1 commercial sex act; or the recruitment, harboring,
2 transportation, provision, or obtaining of a person for labor or
3 services, through the use of force, fraud, or coercion for the
4 purpose of subjection to involuntary servitude, peonage, debt
5 bondage, or slavery.

6 (o) Beginning January 30, 2014, if a driver fails to
7 provide the examiner of drivers with the certification required
8 under title 49 Code of Federal Regulations section 383.71(b)(1)
9 or a current medical examiner's certificate if the driver self-
10 certifies according to title 49 Code of Federal Regulations
11 section 383.71(b)(1)(i) that the driver is operating in non-
12 excepted interstate commerce as required by title 49 Code of
13 Federal Regulations section 383.71(h), the examiner of drivers
14 shall mark the commercial driver's license information system
15 driver record as not-certified and initiate a commercial
16 driver's license downgrade.

17 (p) Beginning November 18, 2024, the State shall, upon
18 receiving notification from the Federal Motor Carrier Safety
19 Administration's Drug and Alcohol Clearinghouse that the
20 commercial learner's permit or commercial driver's license
21 holder is prohibited from operating a commercial motor vehicle,
22 initiate established procedures for downgrading the commercial

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1 learner's permit or commercial driver's license. The downgrade
2 must be completed and recorded on the Commercial Driver's
3 License Information System driver record within sixty days of
4 the State's receipt of such notification as stated in title 49
5 Code of Federal Regulations section 383.73(q)."

6 SECTION 4. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect upon its approval.

9

10

INTRODUCED BY: 

11

BY REQUEST

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Report Title:

Commercial Driver's Licenses; Federal Motor Carrier Safety Administration; Drug and Alcohol Clearinghouse

Description:

Revises sections 286-239 and 286-240, HRS, to meet new federal regulations for commercial driver's licenses when the Drug and Alcohol Clearinghouse prohibits a driver from operating a commercial vehicle due to alcohol and drug violations.

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'S LICENSES.

PURPOSE: Beginning November 18, 2024, all states must request information from the Federal Motor Carrier Safety Association's (FMCSA) Drug and Alcohol Clearinghouse. If a state receives notification the applicant is prohibited from operating a commercial motor vehicle, the state must not issue, renew, or upgrade the commercial learner's permit or must downgrade the commercial driver's license as stated in title 49 Code of Federal Regulations section 383.73(q).

MEANS: Amend sections 286-236 and 286-240, Hawaii Revised Statutes.

JUSTIFICATION: The FMCSA is implementing this new requirement for states to increase safety on roadways by prohibiting an applicant or driver with a commercial driver's license from operating a commercial vehicle due to alcohol or drug violations. Failure to comply with federal regulations may result in the loss of federal funds.

Impact on the public: The proposed legislation would increase safety by ensuring that applicants and commercial motor vehicle drivers with alcohol or drug violations do not operate commercial vehicles.

Impact on the department and other agencies: The proposed legislation would require the department's compliance with new federal regulations.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM

DESIGNATION: TRN 597.

OTHER AFFECTED

AGENCIES: Counties' Department of Finance, Commercial
Driver's Licenses Section.

EFFECTIVE DATE: Upon approval.