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# A BILL FOR AN ACT

RELATING TO COMMERCIAL DRIVER'S LICENSE DISQUALIFICATION FOR  
SEVERE FORMS OF TRAFFICKING IN PERSONS.

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

1           SECTION 1. The legislature notes that on July 23, 2019,  
2 the Federal Motor Carrier Safety Administration of the United  
3 States Department of Transportation issued a final rule that  
4 amends title 49 Code of Federal Regulations parts 383 and 384.  
5 The amendments made by the final rule took effect on  
6 September 23, 2019. Under the final rule, drivers who are  
7 convicted of a felony involving a severe form of trafficking in  
8 persons, as defined in title 22 United States Code  
9 section 7102(11), while operating a commercial motor vehicle for  
10 which a commercial driver's license or commercial learner's  
11 permit is required, are permanently banned from holding the  
12 license or permit without the possibility of reinstatement. The  
13 issuance of the final rule reflects Congress' passage of the No  
14 Human Trafficking on Our Roads Act, P.L. 115-106, and it being  
15 signed into law.



1           The legislature also notes that the Federal Motor Carrier  
2 Safety Administration's final rule also requires states to come  
3 into substantial compliance with the federal Act within three  
4 years of the final rule's effective date.

5           Accordingly, the purpose of this Act is to bring Hawaii's  
6 laws into harmony with the federal No Human Trafficking on Our  
7 Roads Act and the final rule's amendments to title 49 Code of  
8 Federal Regulations sections 383.51 and 384.301.

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

11           "**§286-240 Disqualification, cancellation, and downgrade.**

12 (a) The examiner of drivers shall disqualify any person from  
13 driving a commercial motor vehicle for a period of [~~not~~] no less  
14 than one year if convicted of a first violation of:

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

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



- 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



1           commission of the crimes of manslaughter and negligent  
2           homicide in any degree.

3           (b) The examiner of drivers shall disqualify any person  
4 for a period of [~~not~~] no less than three years for any  
5 conviction of a violation of any offense listed in  
6 subsection (a) that is committed while a hazardous material  
7 required to be placarded under title 49 Code of Federal  
8 Regulations, part 172, subpart F, is being transported.

9           (c) The examiner of drivers shall disqualify any person  
10 from driving a commercial motor vehicle for life if the person  
11 [~~is~~] :

12           (1) Is convicted two or more times for any of the offenses  
13           listed in subsection (a) [~~-~~];

14           (2) Uses a motor vehicle in the commission of any felony  
15           involving the manufacturing, distributing, or  
16           dispensing of a controlled substance, or possession  
17           with intent to manufacture, distribute, or dispense a  
18           controlled substance; or



1        (3) Uses a commercial motor vehicle in the commission of  
2                    any felony involving a severe form of trafficking in  
3                    persons.

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

10        ~~(e)]~~ (d) The examiner of drivers shall disqualify any  
11 person from driving a commercial motor vehicle for a period of  
12 ~~[not]~~ no less than sixty days if the person is convicted of two  
13 serious traffic violations, or one hundred twenty days if the  
14 person is convicted of three serious traffic violations;  
15 provided that the violations are committed in a commercial motor  
16 vehicle and arise from separate incidents occurring within a  
17 three-year period. The one hundred twenty-day disqualification  
18 period required for a third conviction within three years of a  
19 serious traffic violation, as defined in section 286-231, shall  
20 be in addition to any other previously imposed period of



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

6 ~~[(+f)]~~ (e) The examiner of drivers shall disqualify any  
7 person from driving a commercial motor vehicle or from  
8 resubmitting an application for a period of ~~[not]~~ no less than  
9 sixty days if the examiner of drivers finds that a commercial  
10 driver's license or a commercial learner's permit holder or  
11 applicant for a commercial driver's license or commercial  
12 learner's permit has falsified information or failed to report  
13 or disclose required information either before or after issuance  
14 of a commercial driver's license or a commercial learner's  
15 permit.

16 ~~[(+g)]~~ (f) The examiner of drivers shall disqualify any  
17 person from driving a commercial motor vehicle for a period of  
18 ~~[not]~~ no less than one hundred eighty days and ~~[not]~~ no more  
19 than one year for a first violation, for at least two years and  
20 ~~[not]~~ no more than five years for a second violation, and at



1 least three years and ~~not~~ no more than five years for a third  
2 or subsequent violation of a driver or vehicle out-of-service  
3 order committed in a commercial motor vehicle transporting non-  
4 hazardous materials arising from separate incidents occurring  
5 within a ten-year period.

6 ~~(h)~~ (g) The examiner of drivers shall disqualify any  
7 person from driving a commercial motor vehicle for a period of  
8 ~~not~~ no less than one hundred eighty days and ~~not~~ no more  
9 than two years for a first violation and for at least three  
10 years and ~~not~~ no more than five years for any subsequent  
11 violation of a driver or vehicle out-of-service order committed  
12 in a commercial motor vehicle transporting hazardous materials  
13 required to be placarded under title 49 Code of Federal  
14 Regulations, part 172, subpart F, or designed to transport  
15 sixteen or more occupants including the driver; provided that  
16 each violation arises from separate incidents occurring within a  
17 ten-year period.

18 ~~(i)~~ (h) The examiner of drivers shall disqualify any  
19 person from driving a commercial motor vehicle for a period of  
20 ~~not~~ no less than sixty days if the person is convicted of a



1 first violation, [~~not~~] no less than one hundred twenty days if  
2 the person is convicted of a second violation during any three-  
3 year period, and [~~not~~] no less than one year if the person is  
4 convicted of a third or subsequent violation during any three-  
5 year period of a federal, state, or local law or regulation  
6 pertaining to one of the following six offenses at a railroad-  
7 highway grade crossing:

- 8 (1) For all drivers who are not required to always stop,  
9 failing to slow down and check that the tracks are  
10 clear of an approaching train;
- 11 (2) For all drivers who are not required to always stop,  
12 failing to stop before reaching the crossing, if the  
13 tracks are not clear;
- 14 (3) For all drivers who are always required to stop,  
15 failing to stop before driving onto the crossing;
- 16 (4) For all drivers, failing to have sufficient space to  
17 drive completely through the crossing without  
18 stopping;



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

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

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

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



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

3 (k) For purposes of this section, "severe form of  
4 trafficking in persons" shall have the same meaning as provided  
5 in title 22 United States Code section 7102."

6 SECTION 3. Section 286-241, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8 "(a) After disqualifying a person, or suspending,  
9 revoking, canceling, or marking a medical certification status  
10 as not-certified for a commercial driver's license or a  
11 commercial learner's permit, the examiner of drivers shall  
12 update all records to reflect that action within ten days. Any  
13 disqualification imposed in accordance with section [~~286-240(j)~~]  
14 286-240(i) and transmitted by the Federal Motor Carrier Safety  
15 Administration shall become a part of the driving record. After  
16 suspending, revoking, or canceling a [±]non-domiciled[±]  
17 commercial driver's license or commercial learner's permit, the  
18 examiner of drivers shall notify the licensing authority of the  
19 state that issued the commercial driver's license or commercial  
20 learner's permit within ten days. The notification shall



1 include information regarding any disqualification and the  
2 violation or violations that resulted in the disqualification,  
3 revocation, suspension, or cancellation."

4 SECTION 4. Section 286-249, Hawaii Revised Statutes, is  
5 amended by amending subsection (b) to read as follows:

6 "(b) A driver who is convicted of violating an out-of-  
7 service order shall be fined [~~not~~] no less than \$2,500 nor more  
8 than \$4,000 for a first conviction and [~~not~~] no less than \$5,000  
9 nor more than \$7,500 for a second or subsequent conviction, in  
10 addition to the driving disqualification of subsection (a)(1)  
11 and section [~~286-240(g) and (h).~~] 286-240(f) and (g)."

12 SECTION 5. Section 291-17, Hawaii Revised Statutes, is  
13 amended by amending subsection (d) to read as follows:

14 "(d) Any person who is convicted of violating  
15 subsection (a) shall be fined [~~not~~] no more than \$2,750 in  
16 addition to the driving disqualification of section  
17 [~~286-240(e).~~] 286-240(d)."

18 SECTION 6. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 7. This Act shall take effect on July 1, 2021.



**Report Title:**

Transportation; Commercial Driver's License; Felony; Severe Form of Trafficking in Persons

**Description:**

Adds a permanent commercial driver's license disqualification for a holder of a commercial driver's license or commercial learner's permit who is convicted of a felony involving a severe form of trafficking in persons. (SD1)

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

