

JAN 22 2021

A BILL FOR AN ACT

RELATING TO HUMAN TRAFFICKING.

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

1 SECTION 1. The purpose of this Act is to amend sections
2 286-2 and 286-240, Hawaii Revised Statutes, by adding a new
3 definition to section 286-2, Hawaii Revised Statutes, and adding
4 a new subsection to section 286-240, Hawaii Revised Statutes,
5 which will harmonize Hawaii's statute with newly amended title
6 49 Code of Federal Regulations 383.51 and 384.

7 Effective September 23, 2019, the Federal Motor Carrier
8 Safety Administration amended 49 CFR parts 383 and 384 so that
9 drivers convicted of a felony involving a severe form of
10 trafficking in persons, as defined in 22 U.S.C. 7102(11), while
11 operating a commercial motor vehicle for which a commercial
12 driver's license or a commercial learner's permit is required
13 are permanently banned from holding a commercial driver's
14 license or commercial learner's permit without a possibility of
15 reinstatement. This amendment followed passage of the "No Human
16 Trafficking on Our Roads Act". The Federal Motor Carrier Safety
17 Administration rule change also requires states to come into



1 substantial compliance with the amended rule within three years
2 of the effective date.

3 SECTION 2. Section 286-2, Hawaii Revised Statutes, is
4 amended by adding a new definition to be appropriately inserted
5 and to read as follows:

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

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

19 **"§286-240 Disqualification, cancellation, and downgrade.**

20 (a) The examiner of drivers shall disqualify any person from



- 1 driving a commercial motor vehicle for a period of not less than
2 one year if convicted of a first violation of:
- 3 (1) Driving a motor vehicle under the influence of
4 alcohol, a controlled substance, or any drug that
5 impairs driving ability;
 - 6 (2) Driving a commercial motor vehicle while the alcohol
7 concentration of the driver's blood is 0.04 or more
8 grams of alcohol per two hundred ten liters of breath
9 or 0.04 or more grams of alcohol per one hundred
10 milliliters or cubic centimeters of blood;
 - 11 (3) Refusing to submit to a test to determine the driver's
12 alcohol concentration while driving a motor vehicle as
13 required under sections 286-243 and 291E-11;
 - 14 (4) Using a motor vehicle in the commission of any felony;
 - 15 (5) Leaving the scene of an accident involving the motor
16 vehicle driven by the person;
 - 17 (6) Unlawful transportation, possession, or use of a
18 controlled substance while on duty;
 - 19 (7) Driving a commercial motor vehicle when, as a result
20 of prior violations committed while operating a
21 commercial motor vehicle, the driver's commercial



1 driver's license or commercial learner's permit is
2 revoked, suspended, or canceled, or the driver is
3 otherwise disqualified from operating a commercial
4 motor vehicle; or

5 (8) Causing a fatality through the operation of a
6 commercial motor vehicle, including through the
7 commission of the crimes of manslaughter and negligent
8 homicide in any degree.

9 (b) The examiner of drivers shall disqualify any person
10 for a period of not less than three years for any conviction of
11 a violation of any offense listed in subsection (a) that is
12 committed while a hazardous material required to be placarded
13 under title 49 Code of Federal Regulations, part 172, subpart F,
14 is being transported.

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

19 (d) The examiner of drivers shall disqualify any person
20 from driving a commercial motor vehicle for life if the person
21 uses a motor vehicle in the commission of any felony involving



1 the manufacturing, distributing, or dispensing of a controlled
2 substance, or possession with intent to manufacture, distribute,
3 or dispense a controlled substance.

4 (e) The examiner of drivers shall disqualify any person
5 from driving a commercial motor vehicle for a period of not less
6 than sixty days if the person is convicted of two serious
7 traffic violations, or one hundred twenty days if the person is
8 convicted of three serious traffic violations; provided that the
9 violations are committed in a commercial motor vehicle and arise
10 from separate incidents occurring within a three-year period.
11 The one hundred twenty-day disqualification period required for
12 a third conviction within three years of a serious traffic
13 violation, as defined in section 286-231, shall be in addition
14 to any other previously imposed period of disqualification. The
15 disqualification periods specified in this subsection shall also
16 apply to offenses committed while operating a noncommercial
17 motor vehicle only if the conviction for the offense results in
18 the revocation, cancellation, or suspension of the driver's
19 license.

20 (f) The examiner of drivers shall disqualify any person
21 from driving a commercial motor vehicle or from resubmitting an



1 application for a period of not less than sixty days if the
2 examiner of drivers finds that a commercial driver's license or
3 a commercial learner's permit holder or applicant for a
4 commercial driver's license or commercial learner's permit has
5 falsified information or failed to report or disclose required
6 information either before or after issuance of a commercial
7 driver's license or a commercial learner's permit.

8 (g) The examiner of drivers shall disqualify any person
9 from driving a commercial motor vehicle for a period of not less
10 than one hundred eighty days and not more than one year for a
11 first violation, for at least two years and not more than five
12 years for a second violation, and at least three years and not
13 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) The examiner of drivers shall disqualify any person
18 from driving a commercial motor vehicle for a period of not less
19 than one hundred eighty days and not more than two years for a
20 first violation and for at least three years and not more than
21 five years for any subsequent violation of a driver or vehicle



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

7 (i) The examiner of drivers shall disqualify any person
8 from driving a commercial motor vehicle for a period of not less
9 than sixty days if the person is convicted of a first violation,
10 not less than one hundred twenty days if the person is convicted
11 of a second violation during any three-year period, and not less
12 than one year if the person is convicted of a third or
13 subsequent violation during any three-year period of a federal,
14 state, or local law or regulation pertaining to one of the
15 following six offenses at a railroad-highway grade crossing:

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

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



- 1 (3) For all drivers who are always required to stop,
2 failing to stop before driving onto the crossing;
- 3 (4) For all drivers, failing to have sufficient space to
4 drive completely through the crossing without
5 stopping;
- 6 (5) For all drivers, failing to obey a traffic control
7 device or the directions of an enforcement official at
8 the crossing; or
- 9 (6) For all drivers, failing to negotiate a crossing
10 because of insufficient undercarriage clearance.
- 11 (j) The examiner of drivers shall disqualify any person
12 from driving a commercial motor vehicle if the driver's driving
13 is determined to constitute an imminent hazard, as defined in
14 section 286-231 and in accordance with the provisions of title
15 49 Code of Federal Regulations section 383.52.
- 16 (k) Beginning January 30, 2014, if a driver fails to
17 provide the examiner of drivers with the certification required
18 under title 49 Code of Federal Regulations section 383.71(b)(1)
19 or a current medical examiner's certificate if the driver self-
20 certifies according to title 49 Code of Federal Regulations
21 section 383.71(b)(1)(i) that the driver is operating in non-



1 excepted interstate commerce as required by title 49 Code of
2 Federal Regulations section 383.71(h), the examiner of drivers
3 shall mark the commercial driver's license information system
4 driver record as not-certified and initiate a commercial
5 driver's license downgrade.

6 (1) The examiner of drivers shall disqualify any person
7 from driving a commercial motor vehicle for life without
8 reinstatement, if the person uses a commercial motor vehicle in
9 the commission of any felony involving a severe form of human
10 trafficking as defined in section 286-2."

11 SECTION 4. New statutory material is underscored.

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

13

INTRODUCED BY: 



S.B. NO. 764

Report Title:

Transportation; Commercial Driver's License; Felony; Human Trafficking

Description:

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

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