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# A BILL FOR AN ACT

RELATING TO HUMAN TRAFFICKING.

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

1           SECTION 1. The legislature finds that on July 23, 2019,  
2 the Federal Motor Carrier Safety Administration amended title 49  
3 Code of Federal Regulations parts 383 and 384 to permanently  
4 disqualify individuals who have been convicted of a felony  
5 involving severe forms of trafficking in persons from driving a  
6 commercial motor vehicle. The Federal Motor Carrier Safety  
7 Administration rule amendment, which took effect on  
8 September 23, 2019, also requires states to come into  
9 substantial compliance within three years of the effective date,  
10 or face penalties. The issuance of the final rule reflects  
11 Congress' passage of the No Human Trafficking on Our Roads Act,  
12 P.L. 115-106, and it being signed into law.

13           The purpose of this Act is to bring the State into  
14 compliance with federal regulations by harmonizing existing  
15 state law with the new amendments of the Federal Motor Carrier  
16 Safety Administration to permanently disqualify any person from  
17 driving a commercial motor vehicle for life, and without the  
18 possibility of reinstatement, if the person uses a commercial



1 motor vehicle in the commission of any felony involving severe  
2 forms of trafficking in persons as defined in title 22 United  
3 States Code section 7102(11).

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

6 **"§286-240 Disqualification, cancellation, and downgrade.**

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

- 10 (1) Driving a motor vehicle under the influence of  
11 alcohol, a controlled substance, or any drug that  
12 impairs driving ability;
- 13 (2) Driving a commercial motor vehicle while the alcohol  
14 concentration of the driver's blood is 0.04 or more  
15 grams of alcohol per two hundred ten liters of breath  
16 or 0.04 or more grams of alcohol per one hundred  
17 milliliters or cubic centimeters of blood;
- 18 (3) Refusing to submit to a test to determine the driver's  
19 alcohol concentration while driving a motor vehicle as  
20 required under sections 286-243 and 291E-11;
- 21 (4) Using a motor vehicle in the commission of any felony;



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 ~~not~~ no less than three years for any  
18 conviction of a violation of any offense listed in subsection  
19 (a) that is committed while a hazardous material required to be  
20 placarded under title 49 Code of Federal Regulations, part 172,  
21 subpart F, is being transported.



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 [~~not~~] no  
13 less 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 period.  
18 The one hundred twenty-day disqualification period required for  
19 a third conviction within three years of a serious traffic  
20 violation, as defined in section 286-231, shall be in addition  
21 to any other previously imposed period of disqualification. The



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

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

15 (g) The examiner of drivers shall disqualify any person  
16 from driving a commercial motor vehicle for a period of [~~not~~] no  
17 less than one hundred eighty days and [~~not~~] no more than one  
18 year for a first violation, for at least two years and [~~not~~] no  
19 more than five years for a second violation, and at least three  
20 years and [~~not~~] no more than five years for a third or  
21 subsequent violation of a driver or vehicle out-of-service order



1 committed in a commercial motor vehicle transporting non-  
2 hazardous materials arising from separate incidents occurring  
3 within a ten-year period.

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

15 (i) The examiner of drivers shall disqualify any person  
16 from driving a commercial motor vehicle for a period of [~~not~~] no  
17 less than sixty days if the person is convicted of a first  
18 violation, [~~not~~] no less than one hundred twenty days if the  
19 person is convicted of a second violation during any three-year  
20 period, and [~~not~~] no less than one year if the person is  
21 convicted of a third or subsequent violation during any three-



1 year period of a federal, state, or local law or regulation  
2 pertaining to one of the following six offenses at a railroad-  
3 highway grade crossing:

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

7 (2) For all drivers who are not required to always stop,  
8 failing to stop before reaching the crossing, if the  
9 tracks are not clear;

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

12 (4) For all drivers, failing to have sufficient space to  
13 drive completely through the crossing without  
14 stopping;

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

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

20 (j) The examiner of drivers shall disqualify any person  
21 from driving a commercial motor vehicle if the driver's driving



1 is determined to constitute an imminent hazard, as defined in  
2 section 286-231 and in accordance with the provisions of title  
3 49 Code of Federal Regulations section 383.52.

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

15 (l) The examiner of drivers shall permanently disqualify  
16 any person from driving a commercial motor vehicle for life  
17 without the possibility of reinstatement, if the person uses a  
18 commercial motor vehicle in the commission of any felony  
19 involving severe forms of trafficking in persons.

20 (m) As used in this section:



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

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

14       SECTION 3. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

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



**Report Title:**

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

**Description:**

Adds a permanent commercial driver's license disqualification for a commercial driver's license or commercial learner's permit holder who is convicted of a felony involving severe forms of trafficking in persons, without the possibility of reinstatement. (CD1)

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

