
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 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.

16 The legislature also notes that the Federal Motor Carrier
17 Safety Administration's final rule also requires states to come



1 into substantial compliance with the federal Act within three
2 years of the final rule's effective date.

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

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

9 **"§286-240 Disqualification, cancellation, and downgrade.**

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

- 13 (1) Driving a motor vehicle under the influence of
14 alcohol, a controlled substance, or any drug that
15 impairs driving ability;
- 16 (2) Driving a commercial motor vehicle while the alcohol
17 concentration of the driver's blood is 0.04 or more
18 grams of alcohol per two hundred ten liters of breath
19 or 0.04 or more grams of alcohol per one hundred
20 milliliters or cubic centimeters of blood;



- 1 (3) Refusing to submit to a test to determine the driver's
- 2 alcohol concentration while driving a motor vehicle as
- 3 required under sections 286-243 and 291E-11;
- 4 (4) Using a motor vehicle in the commission of any felony;
- 5 (5) Leaving the scene of an accident involving the motor
- 6 vehicle driven by the person;
- 7 (6) Unlawful transportation, possession, or use of a
- 8 controlled substance while on duty;
- 9 (7) Driving a commercial motor vehicle when, as a result
- 10 of prior violations committed while operating a
- 11 commercial motor vehicle, the driver's commercial
- 12 driver's license or commercial learner's permit is
- 13 revoked, suspended, or canceled, or the driver is
- 14 otherwise disqualified from operating a commercial
- 15 motor vehicle; or
- 16 (8) Causing a fatality through the operation of a
- 17 commercial motor vehicle, including through the
- 18 commission of the crimes of manslaughter and negligent
- 19 homicide in any degree.
- 20 (b) The examiner of drivers shall disqualify any person
- 21 for a period of [~~not~~] no less than three years for any



1 conviction of a violation of any offense listed in
2 subsection (a) that is committed while a hazardous material
3 required to be placarded under title 49 Code of Federal
4 Regulations, part 172, subpart F, is being transported.

5 (c) The examiner of drivers shall disqualify any person
6 from driving a commercial motor vehicle for life if the person
7 ~~is~~:

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

10 (2) Uses a motor vehicle in the commission of any felony
11 involving the manufacturing, distributing, or
12 dispensing of a controlled substance, or possession
13 with intent to manufacture, distribute, or dispense a
14 controlled substance; or

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

18 ~~[-(d) The examiner of drivers shall disqualify any person~~
19 ~~from driving a commercial motor vehicle for life if the person~~
20 ~~uses a motor vehicle in the commission of any felony involving~~
21 ~~the manufacturing, distributing, or dispensing of a controlled~~



1 ~~substance, or possession with intent to manufacture, distribute,~~
2 ~~or dispense a controlled substance.~~

3 ~~(e)]~~ (d) The examiner of drivers shall disqualify any
4 person from driving a commercial motor vehicle for a period of
5 ~~[not]~~ no less than sixty days if the person is convicted of two
6 serious traffic violations, or one hundred twenty days if the
7 person is convicted of three serious traffic violations;
8 provided that the violations are committed in a commercial motor
9 vehicle and arise from separate incidents occurring within a
10 three-year period. The one hundred twenty-day disqualification
11 period required for a third conviction within three years of a
12 serious traffic violation, as defined in section 286-231, shall
13 be in addition to any other previously imposed period of
14 disqualification. The disqualification periods specified in
15 this subsection shall also apply to offenses committed while
16 operating a noncommercial motor vehicle only if the conviction
17 for the offense results in the revocation, cancellation, or
18 suspension of the driver's license.

19 ~~[-(f)]~~ (e) The examiner of drivers shall disqualify any
20 person from driving a commercial motor vehicle or from
21 resubmitting an application for a period of ~~[not]~~ no less than



1 sixty days if the examiner of drivers finds that a commercial
2 driver's license or a commercial learner's permit holder or
3 applicant for a commercial driver's license or commercial
4 learner's permit has falsified information or failed to report
5 or disclose required information either before or after issuance
6 of a commercial driver's license or a commercial learner's
7 permit.

8 ~~[(g)]~~ (f) The examiner of drivers shall disqualify any
9 person from driving a commercial motor vehicle for a period of
10 ~~[not]~~ no less than one hundred eighty days and ~~[not]~~ no more
11 than one year for a first violation, for at least two years and
12 ~~[not]~~ no more than five years for a second violation, and at
13 least three years and ~~[not]~~ no more than five years for a third
14 or subsequent violation of a driver or vehicle out-of-service
15 order committed in a commercial motor vehicle transporting non-
16 hazardous materials arising from separate incidents occurring
17 within a ten-year period.

18 ~~[(h)]~~ (g) The examiner of drivers shall disqualify any
19 person from driving a commercial motor vehicle for a period of
20 ~~[not]~~ no less than one hundred eighty days and ~~[not]~~ no more
21 than two years for a first violation and for at least three



1 years and ~~not~~ no more than five years for any subsequent
2 violation of a driver or vehicle out-of-service order committed
3 in a commercial motor vehicle transporting hazardous materials
4 required to be placarded under title 49 Code of Federal
5 Regulations, part 172, subpart F, or designed to transport
6 sixteen or more occupants including the driver; provided that
7 each violation arises from separate incidents occurring within a
8 ten-year period.

9 ~~(i)~~ (h) The examiner of drivers shall disqualify any
10 person from driving a commercial motor vehicle for a period of
11 ~~not~~ no less than sixty days if the person is convicted of a
12 first violation, ~~not~~ no less than one hundred twenty days if
13 the person is convicted of a second violation during any three-
14 year period, and ~~not~~ no less than one year if the person is
15 convicted of a third or subsequent violation during any three-
16 year period of a federal, state, or local law or regulation
17 pertaining to one of the following six offenses at a railroad-
18 highway grade crossing:

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



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



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

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

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



1 suspending, revoking, or canceling a [+]non-domiciled[+]
 2 commercial driver's license or commercial learner's permit, the
 3 examiner of drivers shall notify the licensing authority of the
 4 state that issued the commercial driver's license or commercial
 5 learner's permit within ten days. The notification shall
 6 include information regarding any disqualification and the
 7 violation or violations that resulted in the disqualification,
 8 revocation, suspension, or cancellation."

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

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

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

19 "(d) Any person who is convicted of violating
 20 subsection (a) shall be fined [~~not~~] no more than \$2,750 in



1 addition to the driving disqualification of
2 section [~~286-240(e).~~] 286-240(d)."

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

5 SECTION 7. This Act shall take effect on January 1, 2050.



S.B. NO. 764
S.D. 1
H.D. 1

Report Title:

Transportation; Commercial Driver's License; Disqualification;
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. Effective 1/1/2050. (HD1)

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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