



GOV. MSG. NO. 1125

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

April 19, 2023

The Honorable Ronald D. Kouchi
President of the Senate,
and Members of the Senate
Thirty-Second State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki
Speaker, and Members of the
House of Representatives
Thirty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on April 19, 2023, the following bill was signed into law:

HB1109 HD2

RELATING TO COMMERCIAL DRIVER
LICENSING.
ACT 025

Sincerely,

A handwritten signature in black ink that reads "Josh Green".

Josh Green, M.D.
Governor, State of Hawai'i

on APR 19 2023

HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO. 1109
H.D. 2

A BILL FOR AN ACT

RELATING TO COMMERCIAL DRIVER LICENSING.

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

1 SECTION 1. Section 286-240, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§286-240 Disqualification, cancellation, and downgrade.**

4 (a) The examiner of drivers shall disqualify any person from
5 driving a commercial motor vehicle for a period of no less than
6 one year if convicted of a first violation of:

7 (1) Driving a motor vehicle under the influence of
8 alcohol, a controlled substance, or any drug that
9 impairs driving ability;

10 (2) Driving a commercial motor vehicle while the alcohol
11 concentration of the driver's blood is 0.04 or more
12 grams of alcohol per two hundred ten liters of breath
13 or 0.04 or more grams of alcohol per one hundred
14 milliliters or cubic centimeters of blood;

15 (3) Refusing to submit to a test to determine the driver's
16 alcohol concentration while driving a motor vehicle as
17 required under sections 286-243 and 291E-11;



- 1 (4) Using a motor vehicle in the commission of any felony;
- 2 (5) Leaving the scene of an accident involving the motor
- 3 vehicle driven by the person;
- 4 (6) Unlawful transportation, possession, or use of a
- 5 controlled substance while on duty;
- 6 (7) Driving a commercial motor vehicle when, as a result
- 7 of prior violations committed while operating a
- 8 commercial motor vehicle, the driver's commercial
- 9 driver's license or commercial learner's permit is
- 10 revoked, suspended, or canceled, or the driver is
- 11 otherwise disqualified from operating a commercial
- 12 motor vehicle; or
- 13 (8) Causing a fatality through the operation of a
- 14 commercial motor vehicle, including through the
- 15 commission of the crimes of manslaughter and negligent
- 16 homicide in any degree.
- 17 (b) The examiner of drivers shall disqualify any person
- 18 for a period of no less than three years for any conviction of a
- 19 violation of any offense listed in subsection (a) that is
- 20 committed while a hazardous material required to be placarded



1 under title 49 Code of Federal Regulations, part 172, subpart F,
2 is being transported.

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

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

13 (e) The examiner of drivers shall disqualify any person
14 from driving a commercial motor vehicle for a period of no less
15 than sixty days if the person is convicted of two serious
16 traffic violations, or one hundred twenty days if the person is
17 convicted of three serious traffic violations; provided that the
18 violations are committed in a commercial motor vehicle and arise
19 from separate incidents occurring within a three-year period.
20 The one hundred twenty-day disqualification period required for
21 a third conviction within three years of a serious traffic



1 violation, as defined in section 286-231, shall be in addition
2 to any other previously imposed period of disqualification. The
3 disqualification periods specified in this subsection shall also
4 apply to offenses committed while operating a noncommercial
5 motor vehicle only if the conviction for the offense results in
6 the revocation, cancellation, or suspension of the driver's
7 license.

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

17 (g) If the examiner of drivers receives credible
18 information that a commercial driver's license or commercial
19 learner's permit holder is suspected, but has not been
20 convicted, of fraud related to the issuance of the commercial
21 driver's license or commercial learner's permit, the examiner of



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

- 7 (1) If the commercial driver's license or commercial
8 learner's permit holder fails to make an appointment
9 within thirty days, the examiner of drivers shall
10 disqualify the commercial driver's license or
11 commercial learner's permit indefinitely until the
12 applicant reapplies; or
- 13 (2) If the driver fails either the knowledge or skills
14 test or does not take the test, the examiner of
15 drivers shall disqualify the commercial driver's
16 license or commercial learner's permit indefinitely
17 until the applicant reapplies. Once a commercial
18 driver's license or commercial learner's permit
19 holder's commercial driver's license or commercial
20 learner's permit has been disqualified, the driver or
21 learner shall reapply for a commercial driver's



1 license or commercial learner's permit under state
2 procedures applicable to all commercial driver's
3 license or commercial learner's permit applicants.

4 (h) The examiner of drivers shall invalidate the
5 commercial driver's license or commercial learner's permit of a
6 person who has been convicted of fraud relating to the issuance
7 of that commercial driver's license or commercial learner's
8 permit, as well as the application of a person so convicted who
9 seeks to renew, transfer, or upgrade the fraudulently obtained
10 commercial driver's license or commercial learner's permit for a
11 period of no less than one year.

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



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

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



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



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

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

17 ~~(m)~~ (o) As used in this section:

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

20 "Severe forms of trafficking in persons" means either sex
21 trafficking in which a commercial sex act is induced by force,



1 fraud, or coercion, or in which the person induced to perform
2 [~~such~~] the act has not attained eighteen years of age; or the
3 recruitment, harboring, transportation, provision, obtaining,
4 patronizing, or soliciting of a person for the purpose of a
5 commercial sex act; or the recruitment, harboring,
6 transportation, provision, or obtaining of a person for labor or
7 services, through the use of force, fraud, or coercion for the
8 purpose of subjection to involuntary servitude, peonage, debt
9 bondage, or slavery."

10 SECTION 2. Section 286-241, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) After disqualifying a person, or suspending,
13 revoking, canceling, or marking a medical certification status
14 as not-certified for a commercial driver's license or [a]
15 commercial learner's permit, the examiner of drivers shall
16 update all records to reflect that action within ten days. Any
17 disqualification imposed in accordance with section [~~286-240(j)~~]
18 286-240(1) and transmitted by the Federal Motor Carrier Safety
19 Administration shall become a part of the driving record. After
20 suspending, revoking, or canceling a [+]non-domiciled[+]
21 commercial driver's license or commercial learner's permit, the



1 examiner of drivers shall notify the licensing authority of the
2 state that issued the commercial driver's license or commercial
3 learner's permit within ten days. The notification shall
4 include information regarding any disqualification and the
5 violation or violations that resulted in the disqualification,
6 revocation, suspension, or cancellation."

7 SECTION 3. Section 286-249, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

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

15 SECTION 4. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

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

18



APPROVED this 19th day of April, 2023

A handwritten signature in black ink, appearing to read "James I. Ho", is written above the title of the Governor.

GOVERNOR OF THE STATE OF HAWAII

HB No. 1109, HD 2

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: March 7, 2023
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Third Reading in the House of Representatives of the Thirty-Second Legislature of the State of Hawaii, Regular Session of 2023.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAII

Date: APR 11 2023
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Third Reading in the Senate of the Thirty-Second Legislature of the State of Hawaii, Regular Session of 2023.



Ronald D. Kouchi
President of the Senate



Carol T. Taniguchi
Clerk of the Senate