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# 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;

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           ~~(1)~~ (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 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] commercial  
21 driver's license or commercial learner's permit, the examiner of



1 drivers shall notify the licensing authority of the state that  
2 issued the commercial driver's license or commercial learner's  
3 permit within ten days. The notification shall include  
4 information regarding any disqualification and the violation or  
5 violations that resulted in the disqualification, revocation,  
6 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 less than \$2,500 nor more than  
11 \$4,000 for a first conviction and not less than \$5,000 nor more  
12 than \$7,500 for a second or subsequent conviction, in addition  
13 to the driving disqualification of subsection (a)(1) and section  
14 [~~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 on June 30, 3000.

18



**Report Title:**

Commercial Driver Licensing; Commercial Learner's Permit;  
Commercial Driver's Licenses

**Description:**

Meets federal requirements on fraudulent activity relating to  
commercial learner's permits and commercial driver's licenses.  
Effective 6/30/3000. (HD1)

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

