

ACT 70

H.B. NO. 2582

A Bill for an Act Relating to Highway Safety.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-234, Hawaii Revised Statutes, is amended to read as follows:

“§286-234 Employer responsibilities. (a) Each employer shall require the applicant to provide the information specified in section 286-233.

(b) No employer shall knowingly allow, permit, or authorize a driver to drive a commercial motor vehicle [~~during any period~~]:

- (1) [~~¶~~] During any period in which the driver has a driver’s license or permit suspended, revoked, or canceled by a state, has lost the privilege to drive a commercial motor vehicle in a state, or has been disqualified from driving a commercial motor vehicle; [~~or~~]
- (2) [~~¶~~] During any period in which the driver has more than one driver’s license[~~;~~];
- (3) During any period in which the driver, or the commercial motor vehicle the driver is driving, or the motor carrier operation, is subject to an out-of-service order; or
- (4) In violation of a federal, state, or local law or regulation pertaining to railroad-highway grade crossings.

(c) Any employer who violates subsection (a) or (b)(1) or (2) shall for a first conviction be fined not more than \$100; for conviction of a second offense committed within one year after the date of the prior conviction, the employer shall be fined not more than \$300; for conviction of a third or subsequent offense committed within two years after the date of the second conviction, the employer shall be fined not more than \$1,000.

~~[(d) No employer shall knowingly allow, permit, or authorize any individual to drive a commercial motor vehicle during any period in which the employee, the motor vehicle, or the motor carrier operation is subject to an out-of-service order.~~

~~(e)] (d) Any employer who is convicted of a violation of subsection [(d)] (b)(3) shall be subject to a fine of not less than [\$2,500] \$2,750 nor more than [\$10,000.] \$11,000.~~

(e) Any employer who is convicted of a violation of subsection (b)(4) shall be subject to a civil penalty of not more than \$10,000."

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

"§286-240 Disqualification and cancellation. (a) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of:

- (1) Driving a commercial motor vehicle under the influence of alcohol, a controlled substance, or any drug which impairs driving ability;
- (2) Driving a commercial motor vehicle while the alcohol concentration of the driver's blood is 0.04 per cent or more by weight;
- (3) Refusal to submit to a test to determine the driver's alcohol concentration while driving a commercial motor vehicle;
- (4) Using a commercial motor vehicle in the commission of any felony;
- (5) Leaving the scene of an accident involving the commercial motor vehicle driven by the person; or
- (6) Unlawful transportation, possession, or use of a controlled substance while on-duty time.

(b) A person is disqualified for a period of not less than three years for any conviction of a violation of any offense listed in subsection (a) that is committed while a hazardous material required to be placarded is being transported.

(c) A person is disqualified from driving a commercial motor vehicle for life if convicted two or more times for violations of any of the offenses listed in subsection (a). ~~[Only offenses committed after April 1, 1991, may be considered in applying this subsection.]~~

(d) A person is disqualified from driving a commercial motor vehicle for life if the person uses a commercial motor vehicle in the commission of any felony involving the manufacturing, distributing, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

(e) A person is disqualified from driving a commercial motor vehicle for a period of not less than sixty days if convicted of two serious traffic violations, or one hundred twenty days if convicted of three serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period.

(f) A person is disqualified from driving a commercial motor vehicle or from resubmitting an application for a period of not less than sixty days, if the examiner of drivers finds that a commercial driver's license holder or applicant for a commercial driver's license has falsified information or failed to report or disclose required information either before or after issuance of a commercial driver's license.

(g) A person is disqualified from driving a commercial motor vehicle for a period of not less than ninety days and not more than one year for a first violation, or for at least one year and not more than five years for a second violation, or at least three years and not more than five years for a third or subsequent violation of an out-of-service order committed in a commercial motor vehicle arising from separate incidents occurring within a ten-year period.

(h) A person is disqualified from driving a commercial motor vehicle for a period of not less than one hundred eighty days or more than two years for a first violation, or for at least three years and not more than five years for any subsequent violation, of an out-of-service order committed in a commercial motor vehicle transporting hazardous materials or designed to transport sixteen or more occupants, arising from separate incidents occurring within a ten-year period.

(i) A person is disqualified from driving a commercial motor vehicle for a period of not less than sixty days if convicted of a first violation, not less than one hundred twenty days if convicted of a second violation during any three-year period, or not less than one year if convicted of a third or subsequent violation during any three-year period for a violation of a federal, state, or local law or regulation pertaining to one of the following six offenses at a railroad-highway grade crossing:

- (1) For all drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;
- (2) For all drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;
- (3) For all drivers who are always required to stop, failing to stop before driving onto the crossing;
- (4) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;
- (5) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing; or
- (6) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.”

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

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

(Approved May 23, 2002.)