

## ACT 288

S.B. NO. 1047

A Bill for an Act Relating to Highway Safety.

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

SECTION 1. Chapter 286, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§286- Commercial drivers under the age of twenty-one.** A person is qualified to drive commercially in the state in intrastate commerce if the person:

- (1) Is at least nineteen years of age;
- (2) Is in compliance with Title 49 Code of Federal Regulations, Part 390-396, Subpart B, except Section 391.11(b)(1) in the case of an intrastate driver involved in intrastate commerce in the state;
- (3) Only operates a category 3 vehicle as defined in section 286-102(b)(3);
- (4) Shall not transport hazardous materials as defined in section 286-2, nor passengers in a school vehicle as defined in section 286-181; and
- (5) Has had a category 3 state driver's license for the two years immediately preceding driving commercially under this section, with the following conditions:
  - (A) Has not had any license suspended, revoked, or canceled; and
  - (B) Has not had any conviction for:
    - (i) Speeding excessively involving any speed of fifteen miles per hour or more above the speed limit;
    - (ii) Driving recklessly, as defined by state or local law or regulation, including but not limited to offenses of driving a motor vehicle in wilful or wanton disregard for the safety of person or property;
    - (iii) Making improper or erratic traffic lane changes;
    - (iv) Following the vehicle ahead too closely; or
    - (v) Violating state or local law relating to motor vehicle traffic control, excluding parking violations, arising in connection with a fatal accident.”

SECTION 2. Section 286-2, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

““Intrastate commerce” means trade, traffic, or transportation between two places in the State that originates and terminates within the State.

“Intrastate driver” means a driver, not less than nineteen years of age, engaged in intrastate commerce, except in the transportation of passengers in a school vehicle, as defined in section 286-181, or in the transportation of hazardous materials, as defined in section 286-2.”

SECTION 3. Section 853-4, Hawaii Revised Statutes, is amended to read as follows:

**“§853-4 Chapter not applicable; when.** This chapter shall not apply when:

- (1) The offense charged involves the intentional, knowing, reckless, or negligent killing of another person;
- (2) The offense charged is:

- (A) A felony that involves the intentional, knowing, or reckless bodily injury, substantial bodily injury, or serious bodily injury of another person; or
- (B) A misdemeanor or petty misdemeanor that carries a mandatory minimum sentence and that involves the intentional, knowing, or reckless bodily injury, substantial bodily injury, or serious bodily injury of another person;
- (3) The offense charged involves a conspiracy or solicitation to intentionally, knowingly, or recklessly kill another person or to cause serious bodily injury to another person;
- (4) The offense charged is a class A felony;
- (5) The offense charged is nonprobationable;
- (6) The defendant has been convicted of any offense defined as a felony by the Hawaii Penal Code or has been convicted for any conduct that if perpetrated in this State would be punishable as a felony;
- (7) The defendant is found to be a law violator or delinquent child for the commission of any offense defined as a felony by the Hawaii Penal Code or for any conduct that if perpetrated in this [State] state would constitute a felony;
- (8) The defendant has a prior conviction for a felony committed in any state, federal, or foreign jurisdiction;
- (9) A firearm was used in the commission of the offense charged;
- (10) The defendant is charged with the distribution of a dangerous, harmful, or detrimental drug to a minor;
- (11) The defendant has been charged with a felony offense and has been previously granted deferred acceptance of guilty plea status for a prior offense, regardless of whether the period of deferral has already expired;
- (12) The defendant has been charged with a misdemeanor offense and has been previously granted deferred acceptance of guilty plea status for a prior felony, misdemeanor, or petty misdemeanor for which the period of deferral has not yet expired;
- (13) The offense charged is:
  - (A) Escape in the first degree;
  - (B) Escape in the second degree;
  - (C) Promoting prison contraband in the first degree;
  - (D) Promoting prison contraband in the second degree;
  - (E) Bail jumping in the first degree;
  - (F) Bail jumping in the second degree;
  - (G) Bribery;
  - (H) Bribery of a witness;
  - (I) Intimidating a witness;
  - (J) Bribery of or by a juror;
  - (K) Intimidating a juror;
  - (L) Jury tampering;
  - (M) Promoting prostitution in the first degree;
  - (N) Promoting prostitution in the second degree;
  - (O) Promoting prostitution in the third degree;
  - (P) Abuse of family or household members;
  - (Q) Sexual assault in the second degree;
  - (R) Sexual assault in the third degree;
  - (S) A violation of an order issued pursuant to chapter 586;
  - (T) Promoting child abuse in the second degree;
  - (U) Promoting child abuse in the third degree;

- (V) Electronic enticement of a child in the first degree; or
- (W) Electronic enticement of a child in the second degree; [~~or~~]
- (14) The defendant has been charged with:
  - (A) Knowingly or intentionally falsifying any report required under chapter 11, subpart B of part XII, with the intent to circumvent the law or deceive the campaign spending commission; or
  - (B) Violating section 11-201 or 11-202[.]; or
- (15) The defendant holds a commercial driver's license and has been charged with violating a traffic control law, other than a parking law, in connection with the operation of any type of motor vehicle.  
 The court may adopt by rule other criteria in this area.”

SECTION 4. Statutory material to be repealed is bracketed and stricken.  
 New statutory material is underscored.<sup>1</sup>

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

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

**Note**

- 1. Edited pursuant to HRS §23G-16.5.