

A Bill for an Act Relating to Commercial Driver's Licensing.

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

SECTION 1. Section 286-236, Hawaii Revised Statutes, is amended to read as follows:

“§286-236 Commercial driver's license qualification standards. (a) No person shall be issued a commercial driver's license unless that person meets the qualification standards of title 49 Code of Federal Regulations, part 391, subparts B and E, has passed a knowledge and driving skills test for driving a commercial motor vehicle that complies with minimum federal standards established by federal regulation enumerated in title 49 Code of Federal Regulations, part 383, subparts G and H, is domiciled in this State as defined in title 49 Code of Federal Regulations, part 383.5, and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act of 1986, Public Law 99-570, title XII, in addition to other requirements imposed by state law or federal regulation. The tests shall be prescribed by the director and administered by the respective county examiner of drivers. The test examiners shall communicate with the applicant only in English during the skills test. As of January 30, 2012, the examiner of drivers shall verify that the medical certification status of a driver who self-certified according to title 49 Code of Federal Regulations section 383.71(a)(1)(ii)(A), non-excepted interstate, is certified. If a driver submits a current medical examiner's certificate, the examiner of drivers shall date-stamp the certificate and post all required information to the commercial driver's license information system pursuant to title 49 Code of Federal Regulations section 383.73(a)(5) and in accordance with title 49 Code of Federal Regulations section 383.73(j). A person who is not physically qualified to drive under title 49 Code of Federal Regulations section 391.41(b)(1), (2), or (3) and who is otherwise qualified to drive a motor vehicle may be granted an intrastate waiver by the director. The process for granting intrastate waivers shall be the same as that for interstate waivers in title 49 Code of Federal Regulations section 391.49, except that the intrastate waiver requests shall be submitted to the director; provided that the director shall adopt rules under chapter 91 to establish a screening process, including approval by a licensed physician, for granting an intrastate waiver to persons who are not physically qualified under title 49 Code of Federal Regulations section 391.41(b)(3).

~~[(b) Pursuant to chapter 91, the director may authorize a third party examiner to administer the driving skills test specified in this section, provided:~~

- ~~(1) The test is the same as that administered by the respective county examiners of drivers; and~~
- ~~(2) The third party examiner has entered into an agreement with the State which complies with requirements of title 49 Code of Federal Regulations, section 383.75.~~

~~(e)] (b) The examiner of drivers may waive the driving skills test specified in this section for a commercial driver's license applicant who meets the requirements of title 49 Code of Federal Regulations section 383.77 or 383.123(b).~~

~~[(d)] (c) A commercial driver's license or commercial learner's permit, including a provisional or temporary license or permit, shall not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver's license is suspended, revoked, or~~

canceled in any state; or while the person holds a driver's license issued by any other state unless the person first surrenders that license.

~~[(e)]~~ (d) A commercial learner's permit may be issued to an individual who holds a valid driver's license, is at least eighteen years of age, meets the qualification standards of title 49 Code of Federal Regulations, part 391, subparts B and E, and has passed the written tests required for the desired class of a commercial driver's license.

~~[(f)]~~ (e) The commercial learner's permit shall not be valid for a period in excess of one hundred eighty days. When driving a commercial motor vehicle, the holder of a commercial learner's permit shall be accompanied by a person with a valid commercial driver's license to operate that category of commercial motor vehicle with the proper endorsements. The licensed person shall occupy the seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle. The commercial learner's permit may be renewed no more than an additional one hundred eighty days without requiring the commercial learner's permit holder to retake the general or endorsement knowledge tests, and the applicant requalifies meeting the requirements of subsection ~~[(e)-]~~ (d). The commercial learner's permit holder is eligible to take the commercial driver's license skills test no earlier than fourteen days after obtaining the permit.

~~[(g)]~~ (f) The examiner of drivers may waive the knowledge and skills tests specified in this section for any person who is at least twenty-one years of age and who possesses a valid commercial driver's license issued by any state of the United States, Mexico, or a province of Canada that issues licenses in accordance with the minimum federal standards for the issuance of commercial driver's licenses. The examiner of drivers shall accept the test scores of a Hawaii commercial learner's permit holder who completes training in another state in the United States and is tested in compliance with federal motor carrier safety regulations by that state in association with the training. The testing state shall electronically transmit in a secure manner the skills test results directly to the examiner of drivers, and if the applicant passed, and meets all other requirements, a Hawaii commercial driver's license shall be issued. To retain a hazardous materials endorsement, the applicant shall pass the knowledge test for a hazardous materials endorsement and be determined by the federal Transportation Security Administration not to pose a security risk warranting denial of the endorsement.

~~[(h)]~~ (g) Every applicant shall successfully complete the commercial driver's license general knowledge test before being issued a commercial learner's permit. A driver holding a valid commercial driver's license who seeks an upgrade for which a skills test is required shall also pass the appropriate knowledge test prior to obtaining a commercial learner's permit."

SECTION 2. Section 286-238, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The application for a commercial driver's license or commercial learner's permit shall include the following with respect to the applicant:

- ~~[(1) The full name and current mailing, residential, and business addresses;~~
- (2) A physical description including sex and height;
- (3) Date of birth;
- (4) Social security number;
- (5) Signature;
- (6) Color photograph, digitized color image or black and white laser-engraved photographs¹ of the driver;

- (7)] (1) Certifications including those required by title 49 Code of Federal Regulations section 383.71(a), except that this certification applies to both intrastate and interstate drivers;
- [(8)] (2) The names of all states where the applicant has previously been licensed to drive any type of motor vehicle during the previous ten years; and
- [(9)] (3) Any other information required by section 286-111.

The applicant shall produce proof of residency to show the applicant's state of domicile as defined in title 49 Code of Federal Regulations section 383.5."

SECTION 3. Section 286-238.2, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) Before issuing a commercial learner's permit, the examiner of drivers shall complete a check of the applicant's driving record as provided in section [286-239(e) or (h).] 286-239(d) or (g)."

SECTION 4. Section 286-239, Hawaii Revised Statutes, is amended to read as follows:

"§286-239 Commercial driver's license. (a) [The commercial driver's license shall be marked "CDL" and, to the maximum extent practicable, shall be tamper proof and include, but not be limited to, the following with respect to the licensee:

- (1) The name and residence address;
- (2) A color photograph, digitized color image, or black and white laser-engraved photographs of the driver;
- (3) A physical description including sex and height;
- (4) Date of birth;
- (5) A commercial driver's license number that shall not be the licensee's social security number;
- (6) Signature;
- (7) The class or type of commercial motor vehicle or vehicles that may be driven together with any endorsements or restrictions;
- (8) The name of this State; and
- (9) The issuance and expiration dates of the license.

(b) Commercial driver's licenses may be issued with the following categories:

- (1) Category A – Any combination of vehicles with a gross combination weight rating of [26,001] twenty-six thousand one pounds or more; provided that the gross vehicle weight rating of the vehicles being towed is in excess of [10,000] ten thousand pounds;
- (2) Category B – Any single vehicle with a gross vehicle weight rating of [26,001] twenty-six thousand one pounds or more, or any such vehicle towing a vehicle not in excess of [10,000] ten thousand pounds; and
- (3) Category C – Any single vehicle or combination of vehicles that meets neither the definition of category A nor that of category B, but that is either:
 - (A) Designed to transport sixteen or more passengers, including the driver; or
 - (B) Used in the transportation of hazardous materials which requires the vehicle to comply with [Title] title 49 Code of Federal Regulations[, Part] part 172, [Subpart] subpart F.

~~[(e)]~~ (b) Commercial drivers' licenses may be issued with any one or more of the following endorsements and restrictions:

- (1) "H" – Authorizes the driver to drive a vehicle transporting hazardous materials;
- (2) "L" – Restricts the driver to vehicles not equipped with air brakes;
- (3) "T" – Authorizes driving double and triple trailers;
- (4) "P" – Authorizes driving vehicles carrying passengers;
- (5) "N" – Authorizes driving tank vehicles;
- (6) "X" – Represents a combination of hazardous materials and tank vehicle endorsements;
- (7) "S" – Authorizes driving school buses;
- (8) "V" – Indicates there is information about a medical variance on the commercial driver's license information system driver record;
- (9) "K" – Restricts the driver from operating in interstate commerce as defined in title 49 Code of Federal Regulations section 390.5;
- (10) "Z" – Restricts the driver to vehicles not equipped with full air brakes;
- (11) "E" – Restricts the driver to vehicles not equipped with any manual transmission;
- (12) "O" – Restricts the driver to non-tractor trailer commercial motor vehicles;
- (13) "M" – Restricts the driver from operating a class A passenger vehicle; and
- (14) "N" – Restricts the driver from operating a class A and B passenger vehicle.

~~[(e)]~~ (c) The holder of a valid commercial driver's license may drive all vehicles in the category for which the license is issued, and all lesser categories of vehicles except motorcycles and except vehicles which require an endorsement, unless the proper endorsement appears on the license.

~~[(e)]~~ (d) Before issuing a commercial driver's license, the examiner of drivers shall complete a check of the applicant's driving record to determine whether the applicant is subject to any disqualification under section 286-240, or any license suspension, revocation, or cancellation under state law, and whether the applicant has a driver's license from more than one state or jurisdiction. The record check shall be made no earlier than twenty-four hours prior to the initial issuance or transfer and no sooner than ten days before renewals and upgrades of a commercial driver's license. The record check shall include but is not limited to the following:

- (1) A check of the applicant's driving record as maintained by the applicant's state of licensure;
- (2) A check with the commercial ~~[[driver's]]~~ license information system;
- (3) A check with the National Driver Register; and
- (4) A request for the applicant's complete driving record from all states where the applicant was previously licensed to drive any motor vehicle over the last ten years. This check is only required for drivers renewing a commercial driver's license for the first time after September 30, 2002; provided that a notation is made on the driver's record confirming the check has been made and the date it was done.

~~[(f)]~~ (e) Within ten days after issuing a commercial driver's license, the examiner of drivers, in the following situations, shall provide the operator of the commercial driver's license information system with all information obtained by the examiner that is necessary to identify the licensee:

- (1) The issuance of each commercial driver's license;

- (2) The notation of any changes in driver identification information; and
- (3) The notation of any changes to the driver's driving record relating to the transfer of a commercial driver's license from one state to another.

~~(e)~~ (f) Commercial driver's licenses shall expire as follows:

- (1) An initial or renewed commercial driver's license with a hazardous materials endorsement shall expire no later than five years from its date of issuance, except if the licensee is seventy-two years of age or older. The expiration date of a commercial driver's license with a hazardous materials endorsement shall be the same expiration date as the hazardous materials endorsement. If the licensee is seventy-two years of age or older, the initial or renewed commercial driver's license with a hazardous materials endorsement shall not exceed two years; and
- (2) All other initial commercial driver's licenses shall be valid for not more than an eight-year period, expiring on the driver's birthday. All other renewed licenses shall be valid for not more than an eight-year period from the expiration date of the previous valid license. With the exception of a commercial driver's license with a hazardous materials endorsement, the commercial driver's license shall expire on the next birthday of the licensee occurring not more than eight years after the date of issuance of the license unless sooner revoked, suspended, or canceled; provided that, unless sooner revoked, suspended, or canceled, the license shall expire on the second birthday of the licensee following the issuance of the license if at that time the licensee is seventy-two years of age or older.

~~(h)~~ (g) When applying for renewal of a commercial driver's license, the applicant shall complete the required application form ~~[required by section 286-238, providing]~~ and provide updated information and required certifications. If the applicant desires to retain a hazardous materials endorsement, the knowledge test for a hazardous materials endorsement shall also be taken and passed by the applicant. The examiner of drivers shall complete a check of the applicant's driving record as required under subsection ~~[(e)-]~~ (d)."

SECTION 5. Section 286-239.5, Hawaii Revised Statutes, is amended to read as follows:

“~~§286-239.5~~ Reactivation of expired commercial driver's license; fees; road test waived. (a) Unless revoked or suspended, and except as provided in subsection (b), any commercial driver's license that has expired under section 286-239 or rules adopted pursuant to section 286-246 may be reactivated by the licensee in accordance with the requirements and procedures set forth for the renewal of commercial drivers' licenses under section ~~[286-239(h)-]~~ 286-239(g). No person seeking reactivation of an expired commercial driver's license under this subsection shall be required to undergo reexamination of the person's driving skills under section 286-236. The examiner of drivers shall require the holder of an expired commercial driver's license to pay a reactivation fee of \$5 for each thirty-day period, or fraction thereof, that has elapsed after a ninety-day grace period.

(b) Any commercial driver's license not reactivated under subsection (a) within one year of the indicated date of expiration shall be invalid. The examiner of drivers shall examine an applicant whose commercial driver's license has been

declared invalid under this subsection in accordance with the licensing procedures established under sections 286-236~~[, 286-238,]~~ and 286-239.”

SECTION 6. Section 291E-44.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Except as provided in sections 286-118.5 and 291E-61.6, the director shall not issue an ignition interlock permit to:

- (1) A respondent whose license is expired, suspended, or revoked as a result of action other than the instant revocation;
- (2) A respondent who does not hold a valid license at the time of arrest for the violation of section 291E-61;
- (3) A respondent who holds a license that is a learner’s permit or instruction permit; or
- (4) A respondent who holds either a category 4 license under section 286-102(b) or a commercial driver’s license under section ~~[286-239(b),]~~ 286-239(a) unless the ignition interlock permit is restricted to a category 1, 2, or 3 license under section 286-102(b).”

SECTION 7. Section 291E-61, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Except as provided in sections 286-118.5 and 291E-61.6, the court shall not issue an ignition interlock permit to:

- (1) A defendant whose license is expired, suspended, or revoked as a result of action other than the instant offense;
- (2) A defendant who does not hold a valid license at the time of the instant offense;
- (3) A defendant who holds either a category 4 license under section 286-102(b) or a commercial driver’s license under section ~~[286-239(b),]~~ 286-239(a) unless the ignition interlock permit is restricted to a category 1, 2, or 3 license under section 286-102(b); or
- (4) A defendant who holds a license that is a learner’s permit or instruction permit.”

SECTION 8. Section 286-238.5, Hawaii Revised Statutes, is repealed.

SECTION 9. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 10. Statutory material to be repealed is bracketed and stricken.² New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval.

(Approved April 30, 2014.)

Notes

1. Prior to amendment “photograph” appeared here.
2. Edited pursuant to HRS §23G-16.5.