

**ACT 215**

S.B. NO. 764

A Bill for an Act Relating to Human Trafficking.

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

SECTION 1. The legislature finds that on July 23, 2019, the Federal Motor Carrier Safety Administration amended title 49 Code of Federal Regulations parts 383 and 384 to permanently disqualify individuals who have been convicted of a felony involving severe forms of trafficking in persons from driving a commercial motor vehicle. The Federal Motor Carrier Safety Administration rule amendment, which took effect on September 23, 2019, also requires states to come into substantial compliance within three years of the effective date, or face penalties. The issuance of the final rule reflects Congress' passage of the No Human Trafficking on Our Roads Act, P.L. 115-106, and it being signed into law.

The purpose of this Act is to bring the State into compliance with federal regulations by harmonizing existing state law with the new amendments of the Federal Motor Carrier Safety Administration to permanently disqualify any person from driving a commercial motor vehicle for life, and without the possibility of reinstatement, if the person uses a commercial motor vehicle in the commission of any felony involving severe forms of trafficking in persons as defined in title 22 United States Code section 7102(11).

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

**“§286-240 Disqualification, cancellation, and downgrade.** (a) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for a period of [~~not~~] no less than one year if convicted of a first violation of:

- (1) Driving a motor vehicle under the influence of alcohol, a controlled substance, or any drug that impairs driving ability;
- (2) Driving a commercial motor vehicle while the alcohol concentration of the driver's blood is 0.04 or more grams of alcohol per two hundred ten liters of breath or 0.04 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood;
- (3) Refusing to submit to a test to determine the driver's alcohol concentration while driving a motor vehicle as required under sections 286-243 and 291E-11;
- (4) Using a motor vehicle in the commission of any felony;
- (5) Leaving the scene of an accident involving the motor vehicle driven by the person;
- (6) Unlawful transportation, possession, or use of a controlled substance while on duty;
- (7) Driving a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license or commercial learner's permit is revoked, suspended, or canceled, or the driver is otherwise disqualified from operating a commercial motor vehicle; or
- (8) Causing a fatality through the operation of a commercial motor vehicle, including through the commission of the crimes of manslaughter and negligent homicide in any degree.

(b) The examiner of drivers shall disqualify any person for a period of [~~not~~] no 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 under title 49 Code of Federal Regulations, part 172, subpart F, is being transported.

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

(d) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for life if the person uses a 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) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for a period of [~~not~~] no less than sixty days if the person is convicted of two serious traffic violations, or one hundred twenty days if the person is convicted of three serious traffic violations; provided that the violations are committed in a commercial motor vehicle and arise from sepa-

rate incidents occurring within a three-year period. The one hundred twenty-day disqualification period required for a third conviction within three years of a serious traffic violation, as defined in section 286-231, shall be in addition to any other previously imposed period of disqualification. The disqualification periods specified in this subsection shall also apply to offenses committed while operating a noncommercial motor vehicle only if the conviction for the offense results in the revocation, cancellation, or suspension of the driver's license.

(f) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle or from resubmitting an application for a period of ~~not~~ no less than sixty days if the examiner of drivers finds that a commercial driver's license or a commercial learner's permit holder or applicant for a commercial driver's license or commercial learner's permit has falsified information or failed to report or disclose required information either before or after issuance of a commercial driver's license or a commercial learner's permit.

(g) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for a period of ~~not~~ no less than one hundred eighty days and ~~not~~ no more than one year for a first violation, for at least two years and ~~not~~ no more than five years for a second violation, and at least three years and ~~not~~ no more than five years for a third or subsequent violation of a driver or vehicle out-of-service order committed in a commercial motor vehicle transporting non-hazardous materials arising from separate incidents occurring within a ten-year period.

(h) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for a period of ~~not~~ no less than one hundred eighty days and ~~not~~ no more than two years for a first violation and for at least three years and ~~not~~ no more than five years for any subsequent violation of a driver or vehicle out-of-service order committed in a commercial motor vehicle transporting hazardous materials required to be placarded under title 49 Code of Federal Regulations, part 172, subpart F, or designed to transport sixteen or more occupants including the driver; provided that each violation arises from separate incidents occurring within a ten-year period.

(i) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for a period of ~~not~~ no less than sixty days if the person is convicted of a first violation, ~~not~~ no less than one hundred twenty days if the person is convicted of a second violation during any three-year period, and ~~not~~ no less than one year if the person is convicted of a third or subsequent violation during any three-year period 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.

(j) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle if the driver's driving is determined to constitute an

imminent hazard, as defined in section 286-231 and in accordance with the provisions of title 49 Code of Federal Regulations section 383.52.

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

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

(m) As used in this section:

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

"Severe forms of trafficking in persons" means either sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained eighteen years of age; or the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery."

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 July 6, 2021.)