
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 286-231, Hawaii Revised Statutes, is
2 amended by adding two new definitions to be appropriately
3 inserted and to read as follows:
- 4 "Commercial driver's license downgrade" means:
- 5 (1) Authorization to change a driver's self-certification
6 to interstate, but operating exclusively in
7 transportation or operation excepted from the Federal
8 Motor Carrier Safety Regulations as provided in Title
9 49 Code of Federal Regulations Sections 390.3(f),
10 391.2, 391.62, and 398.2(b);
- 11 (2) Authorization to change a driver's self-certification
12 to intrastate only if the driver qualifies under the
13 State's physical qualification requirements for
14 intrastate only;
- 15 (3) Authorization to change a driver's certification to
16 intrastate, but operating exclusively in
17 transportation or operations excepted from all or part
18 of the state driver qualification requirements; or



1 (4) Removing the commercial driver's license privilege
2 from the driver's license.

3 "Commercial driver's license information system driver
4 record" means the electronic record of an individual driver's
5 status and history stored by the state of record as part of the
6 commercial driver's license information system established under
7 Title 49 United States Code Section 31309."

8 SECTION 2. Section 286-236, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) No person shall be issued a commercial driver's
11 license unless that person meets the qualification standards of
12 49 Code of Federal Regulations, Part 391, Subparts B and E, has
13 passed a knowledge and driving skills test for driving a
14 commercial motor vehicle [~~which~~] that complies with minimum
15 federal standards established by federal regulation enumerated
16 in Title 49 Code of Federal Regulations, Part 383, Subparts G
17 and H, is domiciled in this State as defined in Title 49 Code of
18 Federal Regulations, Part 383.5, and has satisfied all other
19 requirements of the Commercial Motor Vehicle Safety Act
20 [~~(CMVSA)~~] of 1986 [~~(Title XII)~~], Public Law 99-570 [~~(Title XII)~~], Title XII
21 in addition to other requirements imposed by state law or
22 federal regulation. The tests shall be prescribed by the



1 director and administered by the respective county examiner of
2 drivers. As of January 30, 2012, the examiner of drivers shall
3 verify that the medical certification status of a driver who
4 self-certified according to Title 49 Code of Federal
5 Regulations, Section 383.71(a)(1)(ii)(A), non-excepted
6 interstate, is certified. If a driver submits a current medical
7 examiner's certificate, the examiner of drivers shall date-stamp
8 the certificate and post all required information to the
9 commercial driver's license information system pursuant to Title
10 49 Code of Federal Regulations Section 383.73(a)(5). A person
11 who is not physically qualified to drive under Title 49 Code of
12 Federal Regulations Section 391.41(b)(1), (2), or (3) and who is
13 otherwise qualified to drive a motor vehicle may be granted an
14 intrastate waiver by the director. The process for granting
15 intrastate waivers shall be the same as that for interstate
16 waivers in Title 49 Code of Federal Regulations, [Part] Section
17 391.49, except that the intrastate waiver requests shall be
18 submitted to the director; provided that the director shall
19 adopt rules under chapter 91 to establish a screening process,
20 including approval by a licensed physician, for granting an
21 intrastate waiver to persons who are not physically qualified



1 under Title 49 Code of Federal Regulations Section
2 391.41(b)(3)."

3 SECTION 3. Section 286-239, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) Commercial drivers' licenses may be issued with any
6 one or more of the following endorsements and restrictions:

- 7 (1) "H" - Authorizes the driver to drive a vehicle
8 transporting hazardous materials;
- 9 (2) "K" - Restricts the driver to vehicles not equipped
10 with air brakes;
- 11 (3) "T" - Authorizes driving double and triple trailers;
- 12 (4) "P" - Authorizes driving vehicles carrying passengers;
- 13 (5) "N" - Authorizes driving tank vehicles;
- 14 (6) "X" - Represents a combination of hazardous materials
15 and tank vehicle endorsements;
- 16 (7) "S" - Authorizes driving school buses; [and]
- 17 (8) "V" - [~~Restricts the driver from operating in~~
18 ~~interstate commerce as defined in Title 49 Code of~~
19 ~~Federal Regulations Section 390.5.] Indicates there
20 is information about a medical variance on the
21 commercial driver's license information system driver
22 record; and~~



1 (9) "W" - Restricts the driver from operating in
2 interstate commerce as defined in 49 Code of Federal
3 Regulations, Section 390.5."

4 SECTION 4. Section 286-240, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§286-240 Disqualification [and], cancellation[-], and
7 downgrade. (a) The examiner of drivers shall disqualify any
8 person from driving a commercial motor vehicle for a period of
9 not less than one year if convicted of a first violation of:

- 10 (1) Driving a motor vehicle under the influence of
11 alcohol, a controlled substance, or any drug which
12 impairs driving ability;
- 13 (2) Driving a commercial motor vehicle while the alcohol
14 concentration of the driver's blood is 0.04 per cent
15 or more by weight;
- 16 (3) Refusing to submit to a test to determine the driver's
17 alcohol concentration while driving a motor vehicle as
18 required under sections 286-243 and 291E-11;
- 19 (4) Using a motor vehicle in the commission of any felony;
- 20 (5) Leaving the scene of an accident involving the motor
21 vehicle driven by the person;



- 1 (6) Unlawful transportation, possession, or use of a
2 controlled substance while on-duty;
- 3 (7) Driving a commercial motor vehicle when, as a result
4 of prior violations committed while operating a
5 commercial motor vehicle, the driver's commercial
6 driver's license [~~had been~~] is revoked, suspended, or
7 canceled, or the driver [~~was~~] is otherwise
8 disqualified from operating a commercial motor
9 vehicle; or
- 10 (8) Causing a fatality through the operation of a
11 commercial motor vehicle[~~7~~] including [~~but not limited~~
12 ~~to~~] through the commission of the crimes of
13 manslaughter and negligent homicide in any degree.
- 14 (b) The examiner of drivers shall disqualify any person
15 for a period of not less than three years for any conviction of
16 a violation of any offense listed in subsection (a) that is
17 committed while a hazardous material required to be placarded
18 under Title 49 Code of Federal Regulations, Part 172, Subpart F,
19 is being transported.
- 20 (c) The examiner of drivers shall disqualify any person
21 from driving a commercial motor vehicle for life if the person



1 is convicted two or more times for [~~violations of~~] any of the
2 offenses listed in subsection (a).

3 (d) The examiner of drivers shall disqualify any person
4 from driving a commercial motor vehicle for life if the person
5 uses a motor vehicle in the commission of any felony involving
6 the manufacturing, distributing, or dispensing of a controlled
7 substance, or possession with intent to manufacture, distribute,
8 or dispense a controlled substance.

9 (e) The examiner of drivers shall disqualify any person
10 from driving a commercial motor vehicle for a period of not less
11 than sixty days if the person is convicted of two serious
12 traffic violations, or one hundred twenty days if the person is
13 convicted of three serious traffic violations[~~7~~]; provided that
14 the violations are committed in a commercial motor vehicle
15 [~~arising~~] and arise from separate incidents occurring within a
16 three-year period. The one hundred twenty-day disqualification
17 period required for a third conviction within three years of a
18 [~~1~~]serious traffic violation[~~17~~] as defined in section 286-
19 231[~~7~~] shall be in addition to any other previously imposed
20 period of disqualification. [~~These~~] The disqualification
21 periods specified in this subsection shall [~~also~~] apply to
22 offenses committed while operating a noncommercial motor vehicle



1 only if the conviction for the offense results in the
2 revocation, cancellation, or suspension of the driver's license.

3 (f) The examiner of drivers shall disqualify any person
4 from driving a commercial motor vehicle or from resubmitting an
5 application for a period of not less than sixty days[7] if the
6 examiner of drivers finds that a commercial driver's license
7 holder or applicant for a commercial driver's license has
8 falsified information or failed to report or disclose required
9 information either before or after issuance of a commercial
10 driver's license.

11 (g) The examiner of drivers shall disqualify any person
12 from driving a commercial motor vehicle for a period of not less
13 than one hundred eighty days and not more than one year for a
14 first violation, [~~or~~] for at least two years and not more than
15 five years for a second violation, [~~or~~] and at least three years
16 and not more than five years for a third or subsequent violation
17 of a driver or vehicle out-of-service order committed in a
18 commercial motor vehicle transporting non-hazardous materials
19 arising from separate incidents occurring within a ten-year
20 period.

21 (h) The examiner of drivers shall disqualify any person
22 from driving a commercial motor vehicle for a period of not less



1 than one hundred eighty days and not more than two years for a
 2 first violation, [~~or~~] and for at least three years and not more
 3 than five years for any subsequent violation[~~]~~ of a driver or
 4 vehicle out-of-service order committed in a commercial motor
 5 vehicle transporting hazardous materials required to be
 6 placarded under Title 49 Code of Federal Regulations, Part 172,
 7 Subpart F, or designed to transport sixteen or more occupants
 8 including the driver[~~, arising~~]; provided that each violation
 9 arises from separate incidents occurring within a ten-year
 10 period.

11 (i) The examiner of drivers shall disqualify any person
 12 from driving a commercial motor vehicle for a period of not less
 13 than sixty days if convicted of a first violation, not less than
 14 one hundred twenty days if convicted of a second violation
 15 during any three-year period[~~, or~~] and not less than one year if
 16 convicted of a third or subsequent violation during any three-
 17 year period [~~for a violation~~] of a federal, state, or local law
 18 or regulation pertaining to one of the following six offenses at
 19 a railroad-highway grade crossing:

- 20 (1) For all drivers who are not required to always stop,
- 21 failing to slow down and check that the tracks are
- 22 clear of an approaching train;



- 1 (2) For all drivers who are not required to always stop,
2 failing to stop before reaching the crossing, if the
3 tracks are not clear;
- 4 (3) For all drivers who are always required to stop,
5 failing to stop before driving onto the crossing;
- 6 (4) For all drivers, failing to have sufficient space to
7 drive completely through the crossing without
8 stopping;
- 9 (5) For all drivers, failing to obey a traffic control
10 device or the directions of an enforcement official at
11 the crossing; or
- 12 (6) For all drivers, failing to negotiate a crossing
13 because of insufficient undercarriage clearance.
- 14 (j) The examiner of drivers shall disqualify any person
15 from driving a commercial motor vehicle ~~[when]~~ if the driver's
16 driving is determined to constitute an imminent hazard, as
17 defined in section 286-231[7] and ~~[the disqualification is~~
18 ~~imposed]~~ in accordance with the provisions of Title 49 Code of
19 Federal Regulations Section 383.52.
- 20 (k) Beginning January 30, 2014, if a driver fails to
21 provide the examiner of drivers with the certification required
22 under Title 49 Code of Federal Regulations Section



1 383.71(a)(1)(ii) or a current medical examiner's certificate if
2 the driver self-certifies according to Title 49 Code of Federal
3 Regulations Section 383.71(a)(1)(ii)(A) that the driver is
4 operating in non-excepted interstate commerce as required by
5 Title 49 Code of Federal Regulations Section 383.71(h), the
6 examiner of drivers shall mark the commercial driver's license
7 information system driver record as "not-certified" and initiate
8 a commercial driver's license downgrade."

9 SECTION 5. Section 286-241, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§286-241 Notification of disqualification, suspension,
12 revocation, ~~[or]~~ cancellation, marking medical certification
13 status as "not-certified", or downgrading of commercial driver's
14 licenses or permits. (a) After disqualifying a person, or
15 suspending, revoking, ~~[or]~~ canceling, or marking a medical
16 certification status as not-certified for a commercial driver's
17 license or permit, ~~[the records of]~~ the examiner of drivers
18 shall ~~[be updated]~~ update all records to reflect that action
19 within ten days. Any disqualification imposed in accordance
20 with section 286-240(j) and transmitted by the Federal Motor
21 Carrier Safety Administration shall become a part of the driving
22 record. After suspending, revoking, or canceling a nonresident



1 commercial driver's license or permit, the examiner of drivers
2 shall notify the licensing authority of the state ~~[which]~~ that
3 issued the commercial driver's license within ten days. The
4 notification shall include information regarding any
5 disqualification and the violation or violations that resulted
6 in the disqualification, revocation, suspension, or
7 cancellation.

8 (b) Beginning January 30, 2012, the examiner of drivers,
9 within ten calendar days of the expiration of a commercial
10 driver's license driver's medical certification status or the
11 expiration or rescission of a medical variance, shall change the
12 medical certification status of that driver to not-certified.

13 (c) Beginning January 30, 2012, within ten calendar days
14 of receiving information from the Federal Motor Carrier Safety
15 Administration regarding issuance or renewal of a medical
16 variance for a driver, the examiner of drivers shall update the
17 commercial driver's license information system driver record to
18 include the medical variance information provided by the Federal
19 Motor Carrier Safety Administration.

20 (d) Beginning January 30, 2012, if a driver's medical
21 certification or medical variance expires or if the Federal
22 Motor Carrier Safety Administration notifies the examiner of



1 drivers that a driver's medical variance was removed or
2 rescinded, the examiner of drivers shall:

3 (1) Notify the commercial driver's license holder of the
4 holder's not-certified medical certification status
5 and that the commercial driver's license privilege
6 will be removed from the driver's license unless the
7 driver submits a current medical certificate or
8 medical variance; and

9 (2) Initiate procedures for downgrading the license;
10 provided that the commercial driver's license
11 downgrade shall be completed and recorded within sixty
12 days of the driver's medical certification status
13 becoming not-certified to operate a commercial motor
14 vehicle.

15 (e) Beginning January 30, 2014, if a driver fails to
16 provide the examiner of drivers with the certification required
17 by Title 49 Code of Federal Regulations Section 383.71(a)(1)(ii)
18 or a current medical examiner's certificate if the driver
19 self-certifies according to Title 49 Code of Federal Regulations
20 Section 383.71(a)(1)(ii)(A) that the driver is operating in
21 non-excepted interstate commerce as required by Title 49 Code of
22 Federal Regulations Section 383.71(h) the examiner of drivers



1 shall mark the commercial driver's license information system
2 driver record as not-certified and initiate a commercial
3 driver's license downgrade."

4 SECTION 6. Section 286-241.4, Hawaii Revised Statutes, is
5 amended by amending its title and subsection (a) to read as
6 follows:

7 "§286-241.4 Authority of examiner of drivers to suspend,
8 revoke, ~~or~~ cancel, mark the medical certification status as
9 "not-certified", or downgrade commercial driver's license or
10 permit. (a) The examiner of drivers may suspend, revoke, ~~or~~
11 cancel, mark the medical certification status as not-certified,
12 or downgrade any commercial driver's license or permit without a
13 hearing when the examiner of drivers has probable cause to
14 believe that the licensee is disqualified under section
15 286-240."

16 SECTION 7. Section 286-245, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§286-245 Driving record information to be recorded and
19 furnished. (a) Whenever a person is convicted of a moving
20 traffic violation based on a statute, ordinance, or rule, fails
21 to appear for a hearing, trial, or other court or administrative
22 proceeding on the moving traffic violation, or fails to pay a



1 fine or court cost ordered for a moving violation, the state
2 judiciary shall forward to the examiner of drivers the record of
3 the conviction. The record of conviction shall include whether
4 the offender was operating a commercial motor vehicle at the
5 time of the offense, whether the offender was transporting
6 hazardous materials requiring placarding under Title 49 Code of
7 Federal Regulations [~~Section~~] Part 172, Subpart F, the citation
8 date, the conviction date, the citation number, the court in
9 which the conviction occurred, and the [~~offense(s)~~] offenses for
10 which the person has been convicted [~~of~~]. No record of
11 conviction [~~is~~] transmitted and maintained in the statewide
12 traffic records system shall be used for purposes other than the
13 licensing of drivers[~~is~~] including any record of:

- 14 (1) Driving a motor vehicle under the influence of
15 alcohol, a controlled substance, or any drug which
16 impairs driving ability;
17 (2) Driving a commercial motor vehicle while the alcohol
18 concentration of the driver's blood is 0.04 per cent
19 or more by weight;
20 (3) Refusing to submit to a test to determine the driver's
21 alcohol concentration while driving a motor vehicle as
22 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 if, as a result of
7 prior violations committed while operating a
8 commercial motor vehicle, the driver's commercial
9 driver's license has been revoked, suspended, or
10 canceled, or the driver has been otherwise
11 disqualified from operating a commercial motor
12 vehicle; or
13 (8) Causing a fatality through the operation of a
14 commercial motor vehicle, including in the commission
15 of the crimes of manslaughter and negligent homicide
16 in any degree.
- 17 (b) Within ten days of an in-state conviction~~[7]~~ and
18 within ten days of the receipt of notice of an out-of-state
19 conviction, the examiner of drivers shall record and maintain as
20 part of the driver's record:
- 21 (1) All convictions, disqualifications, and other
22 licensing actions for violations ~~[both]~~ in this State



1 and out-of-state, of any law relating to motor vehicle
2 traffic control, other than a parking violation,
3 committed in any type of vehicle, by a holder of a
4 commercial driver's license; and

5 (2) All convictions, disqualifications, and other
6 licensing actions for violations [~~both~~] in this State
7 and out-of-state, of any law relating to motor vehicle
8 traffic control, other than a parking violation,
9 committed while the driver was operating a commercial
10 motor vehicle[7] and was required to have a commercial
11 driver's license.

12 (c) No commercial driver's license driver's conviction for
13 any violation[7] in any type of motor vehicle[7] of a state or
14 local traffic control law, except a parking violation, shall be
15 expunged or subject to deferred imposition of judgment [7] nor
16 shall an individual be allowed to enter into a diversion program
17 that would prevent the conviction from appearing on the driver's
18 driving record, whether the driver was convicted for an offense
19 committed in this State or another state.

20 (d) The state judiciary and the examiner of drivers shall
21 make available to the greatest extent possible information from
22 any driver's record required [by] for enforcement of this



1 section [~~to the greatest extent possible,~~] to the users
2 designated in subsection (f) [7] or their authorized agent,
3 within ten days of:

- 4 (1) Receiving the conviction or disqualification
5 information from another state; or
6 (2) Receiving the conviction information for a violation
7 occurring in this State.

8 (e) All convictions, disqualifications, and other
9 licensing actions for violations shall be retained on each
10 driver's record for at least three years or longer [~~a~~] if
11 required under Title 49 Code of Federal Regulations Section
12 384.231(d).

13 (f) Only the following users or their authorized agents
14 may obtain a driver's record:

- 15 (1) States may receive all information regarding any
16 driver's record;
17 (2) The Secretary of Transportation may receive all
18 information regarding any driver's record;
19 (3) A driver may receive only information related to that
20 driver's record; and
21 (4) A motor carrier employer or prospective motor carrier
22 employer may receive all information regarding [~~a~~] an



1 employee driver's driving record, or the [~~driver's~~]
2 driving record of a prospective employee driver;
3 provided that the request is made by the driver.

4 (g) The traffic violations bureaus of the district courts,
5 upon request, shall furnish users designated in subsection
6 (f) [~~7~~] with a certified driver record listing all convictions,
7 disqualifications, and [~~all~~] licensing actions in this State and
8 notification of any action received from other states that are
9 recorded and maintained by the examiner of drivers. The traffic
10 violations bureaus shall collect a fee for [~~those~~] requests by
11 users designated in subsection (f) (3) and (4), not to exceed \$9,
12 of which \$5 shall be deposited into the general fund, \$2 shall
13 be deposited into the judiciary computer system special fund,
14 and \$2 shall be deposited into the highway fund.

15 (h) Beginning January 30, 2012, the examiner of drivers

16 shall:

17 (1) Post on the commercial driver's license information
18 system and maintain as part of the driver's record the
19 driver's self-certification of type of driving under
20 Title 49 Code of Federal Regulations Section
21 383.71(a)(1)(ii);



- 1 (2) Retain for at least three years after the date of
2 issuance the original or a copy of the medical
3 certificate of any driver required to provide
4 documentation of physical qualification;
- 5 (3) Post within ten calendar days the information from the
6 medical examiner's certificate to the commercial
7 driver's license information system driver record,
8 including:
- 9 (A) The medical examiner's name;
10 (B) The medical examiner's telephone number;
11 (C) The date of issuance of the medical examiner's
12 certificate;
- 13 (D) The medical examiner's license number and the
14 state that issued it;
- 15 (E) The medical examiner's number issued by the
16 national registry of medical examiners as
17 required under Title 49 United States Code
18 Section 31149(d);
- 19 (F) The driver's medical certification status as
20 certified or not-certified;
- 21 (G) The expiration date of the medical examiner's
22 certificate;



- 1 (H) The existence of any medical variance on the
2 medical certificate, such as an exemption or
3 skill performance evaluation;
- 4 (I) Any restrictions including corrective lenses,
5 hearing aids, or a requirement to have possession
6 of an exemption letter or skill performance
7 evaluation certificate while on-duty; and
- 8 (J) The date the medical examiner's certificate
9 information was posted to the commercial driver's
10 license information system driver record; and
- 11 (4) Record the commercial driver's license downgrade
12 within sixty days of the driver's medical
13 certification status becoming not-certified to operate
14 a commercial driver's license."

15 SECTION 8. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 9. This Act shall take effect on July 1, 2011.

18



Report Title:

Commercial Driver Licensing

Description:

Amends the licensing process and medical requirements for commercial driver's licensing to comply with the Federal Motor Carrier Safety Regulations. (SD1)

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

