

S.B. NO. 2871

JAN 25 2012

A BILL FOR AN ACT

RELATING TO COMMERCIAL DRIVER'S LICENSE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Chapter 291, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§291- Using an electronic device for text messaging while  
5 operating a commercial motor vehicle. (a) No person shall use  
6 an electronic device for texting, as defined under section 286-  
7 231, while operating a commercial motor vehicle, as defined  
8 under section 286-2.

9 (b) Any person who is convicted of violating subsection  
10 (a) shall be fined not more than \$2,750 in addition to the  
11 driving disqualification of section 286-240(e)."

12 SECTION 2. Section 286-231, Hawaii Revised Statutes, is  
13 amended by adding two new definitions to be appropriately  
14 inserted and to read as follows:

15 "Electronic device" includes, but is not limited to, a  
16 cellular telephone, personal digital assistant, pager, computer,  
17 or any other device used to input, write, send, receive, or read  
18 text.

1           "Texting" means manually entering alphanumeric text into,  
2 or reading text from, an electronic device.

3           (1) This action includes, but is not limited to, short  
4 message service, emailing, instant messaging, a  
5 command or request to access a World Wide Web page, or  
6 engaging in any other form of electronic text  
7 retrieval or entry, for present or future  
8 communication.

9           (2) Texting does not include:

10           (A) Reading, selecting, or entering a telephone  
11 number, an extension number, or voicemail  
12 retrieval codes and commands into an electronic  
13 device for the purpose of initiating or receiving  
14 a phone call or using voice commands to initiate  
15 or receive a telephone call;

16           (B) Inputting, selecting, or reading information on a  
17 global positioning system or navigation system;  
18 or

19           (C) Using a device capable of performing multiple  
20 functions (e.g., fleet management systems,  
21 dispatching devices, smart phones, citizens band

1                    radios, music players, etc.) for a purpose that  
2                    is not otherwise prohibited in this part."

3            SECTION 3. Section 286-231, Hawaii Revised Statutes, is  
4 amended by amending the definition of "serious traffic  
5 violation" to read as follows:

6            "'Serious traffic violation" means conviction of any of the  
7 following offenses when operating a commercial motor vehicle,  
8 except for weight, defect, and parking violations:

- 9            (1) Excessive speeding, involving any single offense for  
10            any speed of fifteen miles per hour or more above the  
11            posted speed limit;
- 12            (2) Reckless driving, or driving a commercial motor  
13            vehicle in disregard of the safety of persons or  
14            property, including but not limited to offenses of  
15            driving a commercial motor vehicle in wilful or wanton  
16            disregard for the safety of persons or property;
- 17            (3) Improper or erratic traffic lane changes;
- 18            (4) Following a vehicle ahead too closely;
- 19            (5) A violation of any state or local law relating to  
20            motor vehicle traffic control, other than a parking  
21            violation, arising in connection with a fatal traffic  
22            accident;

1 (6) Driving a commercial motor vehicle without obtaining a  
2 commercial driver's license;

3 (7) Driving a commercial motor vehicle without a  
4 commercial driver's license in the driver's  
5 possession; provided that this paragraph shall not  
6 apply to a citation issued under, or an offense  
7 disposed of pursuant to, section 286-116(a) or a  
8 substantially similar provision of law in another  
9 state; [~~or~~]

10 (8) Driving a commercial motor vehicle without the proper  
11 class or endorsements of commercial driver's license  
12 for the specific vehicle group being operated or for  
13 the passengers or type of cargo being transported[~~;~~];  
14 or

15 (9) A violation of state or local law or ordinance on  
16 motor vehicle traffic control prohibiting texting  
17 while driving. "

18 SECTION 4. Section 286-235, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "§286-235 Commercial driver's license required. (a) No  
21 person shall drive a commercial motor vehicle unless the person  
22 holds a valid commercial driver's license and valid applicable

1 endorsements for the vehicle the person is driving, except when  
 2 driving under a commercial driver's instruction permit and  
 3 accompanied by the holder of a valid commercial driver's license  
 4 for the vehicle being driven.

5 (b) No person shall operate a commercial motor vehicle  
 6 without a commercial driver's license in such person's  
 7 possession.

8 [~~(b)~~] (c) No person shall drive a commercial motor vehicle  
 9 while the person's driver's license or permit is suspended,  
 10 revoked, or canceled, or while subject to a disqualification.

11 [~~(e)~~] (d) No person shall drive a commercial motor vehicle  
 12 in violation of an out-of-service order."

13 SECTION 5. Statutory material to be repealed is bracketed  
 14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect upon its approval.

16  
 17  
 18

INTRODUCED BY:           ASBL          

BY REQUEST

**Report Title:**

Commercial Driver's License; Electronic Devices; Texting

**Description:**

Prohibits driving a commercial motor vehicle without a commercial driver's license in the driver's possession; and prohibits texting while operating a commercial motor vehicle.

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

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVER'S LICENSE.

PURPOSE: To require commercial driver's license holders to have their license with them when driving a commercial motor vehicle.

To prohibit commercial driver's license holders from texting while driving.

MEANS: Add a new section to chapter 291 and amend sections 286-231 and 286-235, Hawaii Revised Statutes.

Amend Section 286-231, Hawaii Revised Statutes to include two new definitions and to amend an existing definition.

Amend Section 286-235, Hawaii Revised Statutes to make driving a commercial motor vehicle without a commercial driver's license in the driver's possession a violation.

Amend Chapter 291, Hawaii Revised Statutes to prohibit texting while operating a commercial motor vehicle.

JUSTIFICATION: The intent of the proposed changes is to ensure that the Hawaii laws parallel the federal regulations.

Federal Motor Carrier Safety Regulation 383.51 (c) (7) lists driving without a commercial driver's license in possession as a serious traffic violation. The proposed amendment will make this violation enforceable by State law and allow law enforcement officers to cite drivers for this violation instead of 286-102 (no driver's license) which is not counted as a serious violation.

Section 383.51 (c) (9) lists texting while driving a commercial motor vehicle as a serious traffic violation, which if accumulated, results in penalties that are progressively more serious. This bill puts Hawaii law in harmony with the federal regulation.

Beginning on August 1, 2011, new codes B57 Driving a CMV (commercial motor vehicle) without a CDL in the driver's possession and M85 Texting while driving were added to a list of codes used by all jurisdictions in the Commercial Driver License Information System (CDLIS), a United States-wide system about CDL holders and their driver histories, and in the Problem Driver Pointer Systems (PDPS), the United States-wide system identifying drivers who have been convicted and/or withdrawn for federally specified offenses.

A state must come in substantial compliance with the requirements in this bill as soon as practical but not later than October 28, 2013. Failure to enact the changes could result in the loss of approximately \$5,500,000 (or 5% of \$109,016,036 federal-aid highway funds (based on FY 2011 funding) for the first year of non-compliance and \$10,900,000 (or 10%) per year thereafter.

Impact on the public: This bill will increase highway safety by helping to ensure that unsafe drivers of commercial vehicles are not allowed to drive.

Impact on the department and other agencies: The existing computer applications will report these new convictions and post them to the history record of commercial driver's license holders. As currently done with other major and serious violations, the county CDL staff will be able to take appropriate CDL driver disqualification action against persons convicted of driving



without a license in possession and texting while driving a commercial motor vehicle.

GENERAL FUND: None.

OTHER FUNDS: None.

PBS PROGRAM  
DESIGNATION: TRN 597.

OTHER AFFECTED  
AGENCIES: County CDL offices.

EFFECTIVE DATE: Upon approval.