
A BILL FOR AN ACT

RELATING TO COMMERCIAL DRIVER'S LICENSE DISQUALIFICATION FOR
SEVERE FORMS OF TRAFFICKING IN PERSONS.

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

1 SECTION 1. The legislature notes that on July 23, 2019,
2 the Federal Motor Carrier Safety Administration of the United
3 States Department of Transportation issued a final rule that
4 amends title 49 Code of Federal Regulations parts 383 and 384.
5 The amendments made by the final rule took effect on
6 September 23, 2019. Under the final rule, drivers who are
7 convicted of a felony involving a severe form of trafficking in
8 persons, as defined in title 22 United States Code section
9 7102(11), while operating a commercial motor vehicle for which a
10 commercial driver's license or commercial learner's permit is
11 required, are permanently banned from holding the license or
12 permit without the possibility of reinstatement. The issuance
13 of the final rule reflects Congress' passage of the No Human
14 Trafficking on Our Roads Act, P.L. 115-106, and President
15 Trump's signing of the Act into law.



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1 The legislature also notes that the Federal Motor Carrier
2 Safety Administration's final rule also requires states to come
3 into substantial compliance with the federal Act within three
4 years of the final rule's effective date.

5 Accordingly, the purpose of this Act is to bring Hawaii's
6 laws into harmony with the federal No Human Trafficking on Our
7 Roads Act and recent amendments to title 49 Code of Federal
8 Regulations sections 383.51 and 384.213.

9 SECTION 2. Section 286-2, Hawaii Revised Statutes, is
10 amended by adding a new definition to be appropriately inserted
11 and to read as follows:

12 "Severe forms of trafficking in persons" means:

13 (1) Sex trafficking in which a commercial sex act is
14 induced by force, fraud, or coercion, or in which the
15 person induced to perform the act has not attained
16 eighteen years of age;

17 (2) The recruitment, harboring, transportation, provision,
18 obtaining, patronizing, or soliciting of a person for
19 the purpose of a commercial sex act; or



1 (3) The recruitment, harboring, transportation, provision,
2 or obtaining of a person for labor or for services,
3 through the use of force, fraud, or coercion, for the
4 purpose of subjecting the person to involuntary
5 servitude, peonage, debt bondage, or slavery."

6 SECTION 3. Section 286-240, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§286-240 Disqualification, cancellation, and downgrade.**

9 (a) The examiner of drivers shall disqualify any person from
10 driving a commercial motor vehicle for a period of not less than
11 one year if convicted of a first violation of:

12 (1) Driving a motor vehicle under the influence of
13 alcohol, a controlled substance, or any drug that
14 impairs driving ability;

15 (2) Driving a commercial motor vehicle while the alcohol
16 concentration of the driver's blood is 0.04 or more
17 grams of alcohol per two hundred ten liters of breath
18 or 0.04 or more grams of alcohol per one hundred
19 milliliters or cubic centimeters of blood;



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- 1 (3) Refusing to submit to a test to determine the driver's
2 alcohol concentration while driving a motor vehicle as
3 required under sections 286-243 and 291E-11;
- 4 (4) Using a motor vehicle in the commission of any felony;
- 5 (5) Leaving the scene of an accident involving the motor
6 vehicle driven by the person;
- 7 (6) Unlawful transportation, possession, or use of a
8 controlled substance while on duty;
- 9 (7) Driving a commercial motor vehicle when, as a result
10 of prior violations committed while operating a
11 commercial motor vehicle, the driver's commercial
12 driver's license or commercial learner's permit is
13 revoked, suspended, or canceled, or the driver is
14 otherwise disqualified from operating a commercial
15 motor vehicle; or
- 16 (8) Causing a fatality through the operation of a
17 commercial motor vehicle, including through the
18 commission of the crimes of manslaughter and negligent
19 homicide in any degree.



1 (b) The examiner of drivers shall disqualify any person
2 for a period of not less than three years for any conviction of
3 a violation of any offense listed in subsection (a) that is
4 committed while a hazardous material required to be placarded
5 under title 49 Code of Federal Regulations, part 172, subpart F,
6 is being transported.

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

11 (d) The examiner of drivers shall disqualify any person
12 from driving a commercial motor vehicle for life if the person
13 uses a motor vehicle in the commission of any felony involving
14 the manufacturing, distributing, or dispensing of a controlled
15 substance, or possession with intent to manufacture, distribute,
16 or dispense a controlled substance.

17 (e) The examiner of drivers shall disqualify any person
18 from driving a commercial motor vehicle for a period of not less
19 than sixty days if the person is convicted of two serious
20 traffic violations, or one hundred twenty days if the person is



1 convicted of three serious traffic violations; provided that the
2 violations are committed in a commercial motor vehicle and arise
3 from separate incidents occurring within a three-year period.

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

13 (f) The examiner of drivers shall disqualify any person
14 from driving a commercial motor vehicle or from resubmitting an
15 application for a period of not less than sixty days if the
16 examiner of drivers finds that a commercial driver's license or
17 a commercial learner's permit holder or applicant for a
18 commercial driver's license or commercial learner's permit has
19 falsified information or failed to report or disclose required



1 information either before or after issuance of a commercial
2 driver's license or a commercial learner's permit.

3 (g) The examiner of drivers shall disqualify any person
4 from driving a commercial motor vehicle for a period of not less
5 than one hundred eighty days and not more than one year for a
6 first violation, for at least two years and not more than five
7 years for a second violation, and at least three years and not
8 more than five years for a third or subsequent violation of a
9 driver or vehicle out-of-service order committed in a commercial
10 motor vehicle transporting non-hazardous materials arising from
11 separate incidents occurring within a ten-year period.

12 (h) The examiner of drivers shall disqualify any person
13 from driving a commercial motor vehicle for a period of not less
14 than one hundred eighty days and not more than two years for a
15 first violation and for at least three years and not more than
16 five years for any subsequent violation of a driver or vehicle
17 out-of-service order committed in a commercial motor vehicle
18 transporting hazardous materials required to be placarded under
19 title 49 Code of Federal Regulations, part 172, subpart F, or
20 designed to transport sixteen or more occupants including the



1 driver; provided that each violation arises from separate
2 incidents occurring within a ten-year period.

3 (i) The examiner of drivers shall disqualify any person
4 from driving a commercial motor vehicle for a period of not less
5 than sixty days if the person is convicted of a first violation,
6 not less than one hundred twenty days if the person is convicted
7 of a second violation during any three-year period, and not less
8 than one year if the person is convicted of a third or
9 subsequent violation during any three-year period of a federal,
10 state, or local law or regulation pertaining to one of the
11 following six offenses at a railroad-highway grade crossing:

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

15 (2) For all drivers who are not required to always stop,
16 failing to stop before reaching the crossing, if the
17 tracks are not clear;

18 (3) For all drivers who are always required to stop,
19 failing to stop before driving onto the crossing;



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1 (4) For all drivers, failing to have sufficient space to
2 drive completely through the crossing without
3 stopping;

4 (5) For all drivers, failing to obey a traffic control
5 device or the directions of an enforcement official at
6 the crossing; or

7 (6) For all drivers, failing to negotiate a crossing
8 because of insufficient undercarriage clearance.

9 (j) The examiner of drivers shall disqualify any person
10 from driving a commercial motor vehicle if the driver's driving
11 is determined to constitute an imminent hazard, as defined in
12 section 286-231 and in accordance with the provisions of title
13 49 Code of Federal Regulations section 383.52.

14 (k) The examiner of drivers shall permanently disqualify
15 any person from driving a commercial motor vehicle if the person
16 uses a commercial motor vehicle in the commission of any felony
17 involving a severe form of trafficking in persons as defined in
18 section 286-2.

19 ~~(1)~~ (1) Beginning January 30, 2014, if a driver fails to
20 provide the examiner of drivers with the certification required



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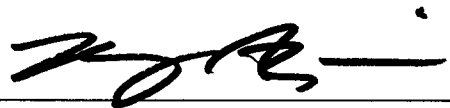
1 under title 49 Code of Federal Regulations section 383.71(b)(1)
 2 or a current medical examiner's certificate if the driver self-
 3 certifies according to title 49 Code of Federal Regulations
 4 section 383.71(b)(1)(i) that the driver is operating in non-
 5 excepted interstate commerce as required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

10 SECTION 4. Statutory material to be repealed is bracketed
 11 and stricken. New statutory material is underscored.

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

13

INTRODUCED BY:



By Request

JAN 22 2021



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Report Title:

Transportation; Commercial Driver's License; Felony

Description:

Adds a permanent commercial driver's license disqualification for a holder of a commercial driver's license or commercial learner's permit who is convicted of a felony involving a severe form of trafficking in persons.

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

