

JAN 16 2008

A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

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

1 SECTION 1. Section 286-240, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§286-240 Disqualification and cancellation.** (a) The
4 examiner of drivers shall disqualify any person from driving a
5 commercial motor vehicle for a period of not less than one year
6 if convicted of a first violation of:

7 (1) Driving a motor vehicle under the influence of
8 alcohol, a controlled substance, or any drug which
9 impairs driving ability;

10 (2) Driving a commercial motor vehicle while the alcohol
11 concentration of the driver's blood is 0.04 per cent
12 or more by weight;

13 (3) Refusing to submit to a test to determine the driver's
14 alcohol concentration while driving a motor vehicle as
15 required under sections 286-243 and 291E-11;

16 (4) Using a motor vehicle in the commission of any felony;



- 1 (5) Leaving the scene of an accident involving the motor
2 vehicle driven by the person;
- 3 (6) Unlawful transportation, possession, or use of a
4 controlled substance while on-duty time;
- 5 (7) Driving a commercial motor vehicle when, as a result
6 of prior violations committed while operating a
7 commercial motor vehicle, the driver's commercial
8 driver's license had been revoked, suspended, or
9 canceled, or the driver was otherwise disqualified
10 from operating a commercial motor vehicle; or
- 11 (8) Causing a fatality through the operation of a
12 commercial motor vehicle, including but not limited to
13 the crimes of manslaughter and negligent homicide in
14 any degree.

15 (b) The examiner of drivers shall disqualify any person
16 for a period of not less than three years for any conviction of
17 a violation of any offense listed in subsection (a) that is
18 committed while a hazardous material required to be placarded
19 under Title 49 Code of Federal Regulations, Part 172, Subpart F,
20 is being transported.

21 (c) The examiner of drivers shall disqualify any person
22 from driving a commercial motor vehicle for life if convicted



1 two or more times for violations of any of the offenses listed
2 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 convicted of two serious traffic violations,
12 or one hundred twenty days if convicted of three serious traffic
13 violations, committed in a commercial motor vehicle arising from
14 separate incidents occurring within a three-year period. The
15 one hundred twenty-day disqualification period required for a
16 third conviction within three years of a "serious traffic
17 violation", as defined in section 286-231, shall be in addition
18 to any other previously imposed period of disqualification.
19 These disqualification periods shall also apply to offenses
20 committed while operating a noncommercial motor vehicle only if
21 the conviction for the offense results in the revocation,
22 cancellation, or suspension of the driver's license.



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

9 (g) The examiner of drivers shall disqualify any person
10 from driving a commercial motor vehicle for a period of not less
11 than ninety days and not more than one year for a first
12 violation, or for at least one year and not more than five years
13 for a second violation, or at least three years and not more
14 than five years for a third or subsequent violation of a driver
15 or vehicle out-of-service order committed in a commercial motor
16 vehicle arising from separate incidents occurring within a ten-
17 year period.

18 (h) The examiner of drivers shall disqualify any person
19 from driving a commercial motor vehicle for a period of not less
20 than one hundred eighty days or more than two years for a first
21 violation, or for at least three years and not more than five
22 years for any subsequent violation, of a driver or vehicle out-



1 of-service order committed in a commercial motor vehicle
2 transporting hazardous materials or designed to transport
3 sixteen or more occupants, arising from separate incidents
4 occurring within a ten-year period.

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

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

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

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



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 when the driver's
11 driving is determined to constitute an imminent hazard, as
12 defined in section 286-231, and the disqualification is imposed
13 in accordance with the provisions of Title 49 Code of Federal
14 Regulations Section 383.52.

15 (k) The examiner of drivers shall disqualify any person
16 from driving a commercial motor vehicle if the person tests
17 positive on a controlled substance test or alcohol test, as
18 provided under Title 49, Code of Federal Regulations, Part 382,
19 Subpart C. A disqualification shall continue in effect until
20 the person has met the requirements of Title 49, Code of Federal
21 Regulations, Part 40, Subpart O."



1 SECTION 2. Section 286-241.4, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The examiner of drivers may suspend, revoke, or
4 cancel any commercial driver's license or permit without a
5 hearing when the examiner of drivers has probable cause to
6 believe that the licensee is disqualified under section [~~286-~~
7 ~~240(e) through (h).~~] 286-240(c) through (k)."

8 SECTION 3. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 4. This Act shall take effect on September 1,
11 2008.

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INTRODUCED BY:

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Report Title:

Transportation; Commercial Motor Vehicle Driver's License

Description:

Disqualifies a person from driving a commercial vehicle for a positive drug or alcohol test as provided under federal regulations.

