

H.B. NO. 1162

A BILL FOR AN ACT

RELATING TO PENALTIES FOR COMMERCIAL DRIVER'S LICENSE
VIOLATIONS.

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

1 SECTION 1. Section 286-234, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) Any employer who is convicted of a violation of
4 subsection (b)(3) shall be subject to a fine of not less than
5 \$2,750 nor more than [~~\$11,000.~~] \$25,000."

6 SECTION 2. Section 286-235, Hawaii Revised Statutes, is
7 amended by amending subsections (b) and (c) to read as follows:

8 "(b) 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[~~7~~
11 ~~or in violation of an out of service order]~~].

12 (c) [~~Any person who holds a category (4), (5), (6), (7),~~
13 ~~(8), (9), or (10) license that is valid on March 31, 1991, may~~
14 ~~continue to drive with that license until that person's next~~
15 ~~birthday, at which time the person shall be permitted to~~
16 ~~continue to drive only if the person obtains either a commercial~~
17 ~~driver's license or a reclassified category (4) license under~~

1 ~~section 286-102(b).~~] No person shall drive a commercial motor
2 vehicle in violation of an out-of-service order."

3 SECTION 3. Section 286-241.4, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) The examiner of drivers may suspend, revoke, [~~or~~]
6 cancel, or disqualify any commercial driver's license or permit
7 without a hearing when the examiner of drivers has probable
8 cause to believe that the licensee is disqualified under section
9 286-240[~~(e) through (h)~~]."

10 SECTION 4. Section 286-249, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§286-249 Penalty.** (a) Any person who drives a commercial
13 motor vehicle in the State without a valid commercial driver's
14 license or permit, or while the person's driving privileges are
15 suspended, revoked, or canceled, or while disqualified from
16 driving a commercial motor vehicle, shall be:

- 17 (1) Disqualified from driving a commercial motor vehicle
18 for a period of not less than one year and up to life;
19 (2) Fined not less than \$500 but not more than \$1,000; and
20 (3) Imprisoned not more than one year;

21 provided that the court shall have discretion to impose either a
22 fine or imprisonment, or both.

1 (b) A driver who is convicted of violating an out-of-
 2 service order shall be fined not less than [~~\$1,100~~] \$2,500 nor
 3 more than [~~\$2,750~~] \$4,000 for a first conviction and not less
 4 than \$5,000 nor more than \$7,500 for a second or subsequent
 5 conviction, in addition to the driving disqualification of
 6 subsection (a)(1) and section 286-240(g) and (h).

7 (c) Any person convicted under or found in violation of
 8 section 286-242(a) shall be fined not more than \$200.

9 (d) Any person convicted under or found in violation of
 10 section 286-242(c) shall be fined not more than \$500."

11 SECTION 5. Statutory material to be repealed is bracketed
 12 and stricken. New statutory material is underscored.

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

14
 15 INTRODUCED BY:

Calvin K. Ray
 16

BY REQUEST

JAN 26 2009

Report Title:

Commercial Driver's License; Penalties; Violations; Motor Vehicle

Description:

Conforms penalty for violating an out-of-service order to federal regulation; provides penalty for operating a commercial motor vehicle with an alcohol concentration of an amount of 0.04 percent or more and imposes a penalty for operating a commercial motor vehicle with any amount of alcohol concentration.

JUSTIFICATION SHEET

DEPARTMENT: Transportation

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

PURPOSE: To make housekeeping changes and enforce section 286-242, Hawaii Revised Statutes, by adding a penalty for operating a commercial motor vehicle with an alcohol concentration of any amount and imposes a penalty for an amount of 0.04 percent or more.

MEANS: Amend sections 286-234(d), 286-235(b) and (c), 286-241.4(a), and 286-249, Hawaii Revised Statutes.

JUSTIFICATION: Housekeeping changes will update the penalties for violation of an out-of-service order, separate the violations for driving while suspended from the driving while out-of-service to enforce a conviction accurately so that counties can impose the proper withdrawal, and include language to clarify licensing action taken by the examiner of drivers to disqualify a commercial driver's license or permit.

The intent of the proposed change in section four of this bill is to apply a penalty for drivers convicted of operating a commercial motor vehicle while having any amount of alcohol concentration to enforce section 286-242, Hawaii Revised Statutes. A conviction will alert the counties that the driver be appropriately disqualified in accordance with section 286-240(a)(2), Hawaii Revised Statutes, and 49 C.F.R. section 384.231.

The Federal Motor Carrier Safety Administration has found that Hawaii does not impose the appropriate disqualification for an intoxication level of 0.04 percent to 0.079 percent. Law enforcement agencies

have reported that they are unable to enforce section 286-242, Hawaii Revised Statutes, since there is no penalty in the law. Federal sanctions will apply if Hawaii continues to not implement disqualification action.

Failure to enact this change could result in the loss of approximately \$4,600,000 (or 5 percent) of federal-aid highway funds (based on fiscal year 2007-2008 funding) for the first year of non-compliance and \$9,300,000 (or 10 percent) per year thereafter. Motor Carrier Safety Assistance Program (MCSAP) grant funds (\$660,667 in fiscal year 2007-2008) could also be withheld for each year of noncompliance.

Impact on the public: Any person operating a commercial motor vehicle with any amount of alcohol concentration and also with 0.04 percent or more will be subject to penalties.

Impact on the department and other agencies: The police officers will be able to enforce the law, the courts will impose the new penalties, and the counties will impose the appropriate disqualification.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PBS PROGRAM DESIGNATION:	TRN 597.
OTHER AFFECTED AGENCIES:	State Judiciary, county police departments, county driver licensing offices.
EFFECTIVE DATE:	Upon approval.