

---

---

# 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) Allowing the driver to change the driver's self-  
6 certification to interstate, but operating exclusively  
7 in transportation or operation excepted from Title 49  
8 Code of Federal Regulations, Part 391, as provided in  
9 Section 390.3(f), 391.2, 391.62, or 398.3 of the  
10 Federal Motor Carrier Safety Regulations, Title 49  
11 Code of Federal Regulations, Parts 350-399;

12 (2) Allowing the driver to change the driver's self-  
13 certification to intrastate only, if the driver  
14 qualifies under the State's physical qualification  
15 requirements for intrastate only;

16 (3) Allowing the driver to change the driver's  
17 certification to intrastate, but operating exclusively  
18 in transportation or operations excepted from all or



1 part of the state driver qualification requirements;

2 or

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

5 "Commercial driver's license information system driver  
6 record" means the electronic record of an individual commercial  
7 driver license driver's status and history stored by the state  
8 of record as part of the commercial driver's license information  
9 system established under Title 49 United States Code, Section  
10 31309."

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

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



1 [~~CMVSA~~] of 1986 [~~+~~], Title XII, Public Law 99-570[~~+~~], in  
2 addition to other requirements imposed by state law or federal  
3 regulation. The tests shall be prescribed by the director and  
4 administered by the respective county examiner of drivers. As  
5 of January 30, 2012, the examiner of drivers shall make certain  
6 that the medical certification status of a driver that self-  
7 certified according to Title 49 Code of Federal Regulations,  
8 Section 383.71(a)(1)(ii)(A) (non-excepted interstate) is  
9 certified, and if the driver submits a current medical  
10 examiner's certificate, shall date-stamp the certificate and  
11 post all required information to the commercial driver's license  
12 information system according to Title 49 Code of Federal  
13 Regulations, Section 383.73(a)(5). A person who is not  
14 physically qualified to drive under Title 49 Code of Federal  
15 Regulations, Section 391.41(b)(1), (2), or (3) and who is  
16 otherwise qualified to drive a motor vehicle may be granted an  
17 intrastate waiver by the director. The process for granting  
18 intrastate waivers shall be the same as that for interstate  
19 waivers in Title 49 Code of Federal Regulations, Part 391.49,  
20 except that the intrastate waiver requests shall be submitted to  
21 the director; provided that the director shall adopt rules under  
22 chapter 91 to establish a screening process, including approval



1 by a licensed physician, for granting an intrastate waiver to  
2 persons who are not physically qualified under Title 49 Code of  
3 Federal Regulations, Section 391.41(b)(3)."

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

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

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



1 commercial driver's license information system driver  
2 record; and

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

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

8 **"§286-240 Disqualification [~~and~~], cancellation[-], and**  
9 **downgrade.** (a) The examiner of drivers shall disqualify any  
10 person from driving a commercial motor vehicle for a period of  
11 not less than 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 which  
14 impairs driving ability;
- 15 (2) Driving a commercial motor vehicle while the alcohol  
16 concentration of the driver's blood is 0.04 per cent  
17 or more by weight;
- 18 (3) Refusing to submit to a test to determine the driver's  
19 alcohol concentration while driving a motor vehicle as  
20 required under sections 286-243 and 291E-11;
- 21 (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;
- 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 one hundred eighty days and not more than one year for a  
12 first violation, or for at least two years and not more than  
13 five years for a second violation, or at least three years and  
14 not more than five years for a third or subsequent violation of  
15 a driver or vehicle out-of-service order committed in a  
16 commercial motor vehicle transporting non-hazardous materials  
17 arising from separate incidents occurring within a ten-year  
18 period.

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





1 five years for any subsequent violation, of a driver or vehicle  
2 out-of-service order committed in a commercial motor vehicle  
3 transporting hazardous materials required to be placarded under  
4 Title 49 Code of Federal Regulations, Part 172, Subpart F, or  
5 designed to transport sixteen or more occupants including the  
6 driver, arising from separate incidents occurring within a ten-  
7 year period.

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

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

20 (2) For all drivers who are not required to always stop,  
21 failing to stop before reaching the crossing, if the  
22 tracks are not clear;



- 1 (3) For all drivers who are always required to stop,  
2 failing to stop before driving onto the crossing;
- 3 (4) For all drivers, failing to have sufficient space to  
4 drive completely through the crossing without  
5 stopping;
- 6 (5) For all drivers, failing to obey a traffic control  
7 device or the directions of an enforcement official at  
8 the crossing; or
- 9 (6) For all drivers, failing to negotiate a crossing  
10 because of insufficient undercarriage clearance.
- 11 (j) The examiner of drivers shall disqualify any person  
12 from driving a commercial motor vehicle when the driver's  
13 driving is determined to constitute an imminent hazard, as  
14 defined in section 286-231, and the disqualification is imposed  
15 in accordance with the provisions of Title 49 Code of Federal  
16 Regulations, Section 383.52.
- 17 (k) Beginning January 30, 2014, if a driver fails to  
18 provide the examiner of drivers with the certification required  
19 under Title 49 Code of Federal Regulations, Section  
20 383.71(a)(1)(ii), or a current medical examiner's certificate if  
21 the driver self-certifies according to Title 49 Code of Federal  
22 Regulations, Section 383.71(a)(1)(ii)(A) that the driver is



1 operating in non-excepted interstate commerce as required by  
2 Title 49 Code of Federal Regulations, Section 383.71(h), the  
3 examiner of drivers shall mark the commercial driver's license  
4 information system driver record as "not-certified" and initiate  
5 a commercial driver's license downgrade."

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

8 "§286-241 Notification of disqualification, suspension,  
9 revocation, [~~or~~] cancellation, marking medical certification  
10 status as "not-certified", or downgrading of commercial driver's  
11 licenses or permits. (a) After disqualifying a person, or  
12 suspending, revoking, [~~or~~] canceling, or marking a medical  
13 certification status as "not-certified", a commercial driver's  
14 license or permit, the records of the examiner of drivers shall  
15 be updated to reflect that action within ten days. Any  
16 disqualification imposed in accordance with section 286-240(j)  
17 and transmitted by the Federal Motor Carrier Safety  
18 Administration shall become a part of the driving record. After  
19 suspending, revoking, or canceling a nonresident commercial  
20 driver's license or permit, the examiner of drivers shall notify  
21 the licensing authority of the state which issued the commercial  
22 driver's license within ten days. The notification shall



1 include information regarding any disqualification and the  
2 violation or violations that resulted in the disqualification,  
3 revocation, suspension, or cancellation.

4 (b) Beginning January 30, 2012, the examiner of drivers  
5 shall, within ten calendar days of a commercial driver's license  
6 driver's medical certification status expiring or a medical  
7 variance expiring or being rescinded, update the medical  
8 certification status of that driver as "not-certified".

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

16 (d) Beginning January 30, 2012, if a driver's medical  
17 certification or medical variance expires, or the Federal Motor  
18 Carrier Safety Administration notifies the examiner of drivers  
19 that a medical variance was removed or rescinded, the examiner  
20 of drivers shall:

21 (1) Notify the commercial driver's license holder of the  
22 holder's "not-certified" medical certification status



1 and that the commercial driver's license privilege  
2 will be removed from the driver's license unless the  
3 driver submits a current medical certificate or  
4 medical variance; and

5 (2) Initiate procedures for downgrading the license. The  
6 commercial driver's license downgrade shall be  
7 completed and recorded within sixty days of the  
8 driver's medical certification status becoming "not-  
9 certified" to operate a commercial motor vehicle.

10 (e) Beginning January 30, 2014, if a driver fails to  
11 provide the examiner of drivers with the certification required  
12 by Title 49 Code of Federal Regulations, Section  
13 383.71(a)(1)(ii), or a current medical examiner's certificate if  
14 the driver self-certifies according to Title 49 Code of Federal  
15 Regulations, Section 383.71(a)(1)(ii)(A) that the driver is  
16 operating in non-excepted interstate commerce as required by  
17 Title 49 Code of Federal Regulations, Section 383.71(h), the  
18 examiner of drivers shall mark the commercial driver's license  
19 information system driver record as "not-certified" and initiate  
20 a commercial driver's license downgrade."



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

4 **"§286-241.4 Authority of examiner of drivers to suspend,**  
5 **revoke, [~~or~~] cancel, mark the medical certification status as**  
6 **"not-certified", or downgrade commercial driver's license or**  
7 **permit.** (a) The examiner of drivers may suspend, revoke, [~~or~~]  
8 cancel, mark the medical certification status as "not-  
9 certified", or downgrade any commercial driver's license or  
10 permit without a hearing when the examiner of drivers has  
11 probable cause to believe that the licensee is disqualified  
12 under section 286-240."

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

15 **"§286-245 Driving record information to be recorded and**  
16 **furnished.** (a) Whenever a person is convicted of a moving  
17 traffic violation based on a statute, ordinance, or rule, fails  
18 to appear for a hearing, trial, or other court or administrative  
19 proceeding on the moving traffic violation, or fails to pay a  
20 fine or court cost ordered for a moving violation, the state  
21 judiciary shall forward to the examiner of drivers the record of  
22 the conviction. The record of conviction shall include whether



1 the offender was operating a commercial motor vehicle at the  
2 time of the offense, whether the offender was transporting  
3 hazardous materials requiring placarding under Title 49 Code of  
4 Federal Regulations, Section 172, Subpart F, the citation date,  
5 the conviction date, the citation number, the court in which the  
6 conviction occurred, and the [~~offense(s)~~] offense or offenses  
7 convicted of. No record of conviction so transmitted and  
8 maintained in the statewide traffic records system shall be used  
9 for purposes other than the licensing of drivers[~~-~~] including  
10 any record of the following:

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

13       (b) Within ten days of an in-state conviction, and within  
14 ten days of the receipt of notice of an out-of-state conviction,  
15 the examiner of drivers shall record and maintain as part of the  
16 driver's record:

17       (1) All convictions, disqualifications, and other  
18       licensing actions for violations both in this State  
19       and out-of-state, of any law relating to motor vehicle  
20       traffic control, other than a parking violation,  
21       committed in any type of vehicle, by a holder of a  
22       commercial driver's license; and





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

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

16       (d) The state judiciary and the examiner of drivers shall  
17       make available information from any driver's record required by  
18       this section to the greatest extent possible, to the users  
19       designated in subsection (f), or their authorized agent, within  
20       ten days of:

21       (1) Receiving the conviction or disqualification  
22       information from another state; or



1 (2) Receiving the conviction for a violation occurring in  
2 this State.

3 (e) All convictions, disqualifications, and other  
4 licensing actions for violations shall be retained on each  
5 driver's record for at least three years or longer as required  
6 under Title 49 Code of Federal Regulations, Section 384.231(d).

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

9 (1) States may receive all information regarding any  
10 driver's record;

11 (2) The Secretary of Transportation may receive all  
12 information regarding any driver's record;

13 (3) A driver may receive only information related to that  
14 driver's record; and

15 (4) A motor carrier or prospective motor carrier may  
16 receive all information regarding a driver's driving  
17 record, or the driver's driving record of a  
18 prospective driver; provided that the request is made  
19 by the driver.

20 (g) The traffic violations bureaus of the district courts,  
21 upon request, shall furnish users designated in subsection (f),  
22 a certified driver record listing all convictions,



1 disqualifications, and all licensing actions in this State and  
2 notification of any action received from other states that are  
3 recorded and maintained by the examiner of drivers. The traffic  
4 violations bureaus shall collect a fee for those requests by  
5 users designated in subsection (f)(3) and (4), not to exceed \$9,  
6 of which \$5 shall be deposited into the general fund, \$2 shall  
7 be deposited into the judiciary computer system special fund,  
8 and \$2 shall be deposited into the highway fund.

9 (h) Beginning January 30, 2012, the examiner of drivers  
10 shall record and maintain medical information as part of the  
11 driver's record by:

12 (1) Posting on the commercial driver's license information  
13 system and maintaining the driver's self-certification  
14 of type of driving under Title 49 Code of Federal  
15 Regulations, Section 383.71(a)(1)(ii);

16 (2) Retaining the original or a copy of the medical  
17 certificate of any driver required to provide  
18 documentation of physical qualification for three  
19 years beyond the date the certificate was issued;

20 (3) Posting the information from the medical examiner's  
21 certificate within ten calendar days to the commercial



1 driver's license information system driver record,

2 including:

3 (A) Medical examiner's name;

4 (B) Medical examiner's telephone number;

5 (C) Date of medical examiner's certificate issuance;

6 (D) Medical examiner's license number and the state  
7 that issued it;

8 (E) Medical examiner's national registry

9 identification number (if required by the

10 national registry of medical examiners under

11 Title 49 United States Code 31149(d));

12 (F) The medical certification status as "certified"  
13 or "not-certified";

14 (G) Expiration date of the medical examiner's  
15 certificate;

16 (H) Existence of any medical variance on the medical  
17 certificate, such as an exemption or skill  
18 performance evaluation;

19 (I) Any restrictions, including corrective lenses,  
20 hearing aids, requirement to have possession of  
21 an exemption letter or skill performance  
22 evaluation certificate while on-duty; and



- 1           (J) Date the medical examiner's certificate  
2           information was posted to the commercial driver's  
3           license information system driver record;  
4           and  
5           (4) Recording the commercial driver's license downgrade  
6           within sixty days of the driver's medical  
7           certification status becoming "not-certified" to  
8           operate a commercial driver's license."

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

11           SECTION 9. This Act shall take effect on January 7, 2059.



**Report Title:**

Commercial Driver Licensing

**Description:**

Amends sections of the Hawaii Revised Statutes relating to the Commercial Driver's License licensing process and medical requirements for drivers. The amendments are designed to put the State in compliance with Federal Motor Carrier Safety Regulations. Effective January 7, 2059. (HB1094 HD1)

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

