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# 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) Authorization to change a driver's self-certification  
6           to interstate, but operating exclusively in  
7           transportation or operation excepted from the Federal  
8           Motor Carrier Safety Regulations as provided in 49  
9           Code of Federal Regulations Sections 390.3(f), 391.2,  
10           391.62, and 398.2(b);

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

15           (3) Authorization to change a driver's certification to  
16           intrastate, but operating exclusively in  
17           transportation or operations excepted from all or part  
18           of the State driver qualification requirements; or



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

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

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

10        "(a) No person shall be issued a commercial driver's  
11 license unless that person meets the qualification standards of  
12 49 Code of Federal Regulations, Part 391, Subparts B and E, has  
13 passed a knowledge and driving skills test for driving a  
14 commercial motor vehicle which complies with minimum federal  
15 standards established by federal regulation enumerated in 49  
16 Code of Federal Regulations, Part 383, Subparts G and H, is  
17 domiciled in this State as defined in 49 Code of Federal  
18 Regulations Part 383.5, and has satisfied all other requirements  
19 of the Commercial Motor Vehicle Safety Act [~~(CMVSA)~~] of 1986,  
20 [~~(Title XII,)~~ Public Law 99-570 ~~(+)~~], Title XII, in addition to  
21 other requirements imposed by state law or federal regulation.  
22 The tests shall be prescribed by the director and administered



1 by the respective county examiner of drivers. As of January 30,  
2 2012, the examiner of drivers shall verify that the medical  
3 certification status of a driver who self-certified according to  
4 49 Code of Federal Regulations Section 383.71(a)(1)(ii)(A), non-  
5 excepted interstate, is certified. If a driver submits a  
6 current medical examiner's certificate, the examiner of drivers  
7 shall date-stamp the certificate and post all required  
8 information to the commercial driver's license information  
9 system pursuant to 49 Code of Federal Regulations Section  
10 383.73(a)(5). A person who is not physically qualified to drive  
11 under 49 Code of Federal Regulations Section 391.41(b)(1), (2),  
12 or (3) and who is otherwise qualified to drive a motor vehicle  
13 may be granted an intrastate waiver by the director. The  
14 process for granting intrastate waivers shall be the same as  
15 that for interstate waivers in 49 Code of Federal Regulations [~~7~~  
16 ~~Part 391.49,~~] Section 391.49, except that the intrastate waiver  
17 requests shall be submitted to the director; provided that the  
18 director shall adopt rules under chapter 91 to establish a  
19 screening process, including approval by a licensed physician,  
20 for granting an intrastate waiver to persons who are not  
21 physically qualified under 49 Code of Federal Regulations  
22 Section 391.41(b)(3)."



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

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

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



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

3 "§286-240 Disqualification [and], cancellation[-], and  
4 downgrade. (a) The examiner of drivers shall disqualify any  
5 person from driving a commercial motor vehicle for a period of  
6 not less than one year 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;
- 17 (5) Leaving the scene of an accident involving the motor  
18 vehicle driven by the person;
- 19 (6) Unlawful transportation, possession, or use of a  
20 controlled substance while on-duty time;
- 21 (7) Driving a commercial motor vehicle when, as a result  
22 of prior violations committed while operating a



1 commercial motor vehicle, the driver's commercial  
2 driver's license [~~had been~~] is revoked, suspended, or  
3 canceled, or the driver [~~was~~] is otherwise  
4 disqualified from operating a commercial motor  
5 vehicle; or

6 (8) Causing a fatality through the operation of a  
7 commercial motor vehicle[~~7~~] including [~~but not limited~~  
8 ~~to~~] through the commission of the crimes of  
9 manslaughter and negligent homicide in any degree.

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

16 (c) The examiner of drivers shall disqualify any person  
17 from driving a commercial motor vehicle for life if the person  
18 is convicted two or more times for [~~violations~~] violation of any  
19 of the offenses listed in subsection (a).

20 (d) The examiner of drivers shall disqualify any person  
21 from driving a commercial motor vehicle for life if the person  
22 uses a motor vehicle in the commission of any felony involving



1 the manufacturing, distributing, or dispensing of a controlled  
2 substance, or possession with intent to manufacture, distribute,  
3 or dispense a controlled substance.

4 (e) The examiner of drivers shall disqualify any person  
5 from driving a commercial motor vehicle for a period of not less  
6 than sixty days if the person is convicted of two serious  
7 traffic violations, or one hundred twenty days if the person is  
8 convicted of three serious traffic violations[~~7~~]; provided that  
9 the violations are committed in a commercial motor vehicle  
10 [~~arising~~] and arise from separate incidents occurring within a  
11 three-year period. The one hundred twenty-day disqualification  
12 period required for a third conviction within three years of a  
13 [~~u~~]serious traffic violation[~~u~~], as defined in section 286-231,  
14 shall be in addition to any other previously imposed period of  
15 disqualification. [~~These~~] The disqualification periods  
16 specified in this section shall [~~also~~] apply to offenses  
17 committed while operating a noncommercial motor vehicle only if  
18 the conviction for the offense results in the revocation,  
19 cancellation, or suspension of the driver's license.

20 (f) The examiner of drivers shall disqualify any person  
21 from driving a commercial motor vehicle or from resubmitting an  
22 application for a period of not less than sixty days[~~7~~] if the



1 examiner of drivers finds that a commercial driver's license  
2 holder or applicant for a commercial driver's license has  
3 falsified information or failed to report or disclose required  
4 information either before or after issuance of a commercial  
5 driver's license.

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

16 (h) The examiner of drivers shall disqualify any person  
17 from driving a commercial motor vehicle for a period of not less  
18 than one hundred eighty days and not more than two years for a  
19 first violation~~[or]~~ and for at least three years and not more  
20 than five years for any subsequent violation~~[or]~~ of a driver or  
21 vehicle out-of-service order committed in a commercial motor  
22 vehicle transporting hazardous materials required to be





1 placarded under Title 49 Code of Federal Regulations, Part 172,  
2 Subpart F, or designed to transport sixteen or more occupants  
3 including the driver~~[, arising]~~; provided that each violation  
4 arises from separate incidents occurring within a ten-year  
5 period.

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

- 15 (1) For all drivers who are not required to always stop,  
16 failing to slow down and check that the tracks are  
17 clear of an approaching train;
- 18 (2) For all drivers who are not required to always stop,  
19 failing to stop before reaching the crossing, if the  
20 tracks are not clear;
- 21 (3) For all drivers who are always required to stop,  
22 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~~] if the driver's  
11 driving is determined to constitute an imminent hazard, as  
12 defined in section 286-231[7] and [~~the disqualification is~~  
13 ~~imposed~~] in accordance with the provisions of Title 49 Code of  
14 Federal Regulations Section 383.52.

15 (k) Beginning January 30, 2014, if a driver fails to  
16 provide the examiner of drivers with the certification required  
17 by 49 Code of Federal Regulations Section 383.71(a)(1)(ii) or a  
18 current medical examiner's certificate if the driver self-  
19 certifies according to 49 Code of Federal Regulations Section  
20 383.71(a)(1)(ii)(A) that the driver is operating in non-excepted  
21 interstate commerce as required by 49 Code of Federal  
22 Regulations Section 383.71(h), the examiner of drivers shall



1 mark the commercial driver's license information system driver  
2 record as not-certified and initiate a commercial driver's  
3 license downgrade."

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

6 "§286-241 Notification of disqualification, suspension,  
7 revocation, [~~or~~] cancellation, marking medical certification  
8 status not-certified, or downgrading of commercial driver's  
9 licenses or permits. (a) After disqualifying a person, or  
10 suspending, revoking, [~~or~~] canceling, or marking medical  
11 certification status not-certified for a commercial driver's  
12 license or permit, [~~the records of~~] the examiner of drivers  
13 shall [~~be updated~~] update all records to reflect that action  
14 within ten days. Any disqualification imposed in accordance  
15 with section 286-240(j) and transmitted by the Federal Motor  
16 Carrier Safety Administration shall become a part of the driving  
17 record. After suspending, revoking, or canceling a nonresident  
18 commercial driver's license or permit, the examiner of drivers  
19 shall notify the licensing authority of the state [~~which~~] that  
20 issued the commercial driver's license within ten days. The  
21 notification shall include information regarding any  
22 disqualification and the violation or violations that resulted



1 in the disqualification, revocation, suspension, or  
2 cancellation.

3 (b) Beginning January 30, 2012, the examiner of drivers  
4 shall, within ten calendar days of the expiration of a  
5 commercial driver's license driver's medical certification  
6 status or the expiration or rescission of a medical variance,  
7 change the medical certification status of that driver to not-  
8 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 if the Federal  
18 Motor Carrier Safety Administration notifies the examiner of  
19 drivers that a driver's medical variance was removed or  
20 rescinded, the examiner of drivers shall:

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



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

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

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



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

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

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~~] Part 172, Subpart F, the citation  
5 date, the conviction date, the citation number, the court in  
6 which the conviction occurred, and the [~~offense(s)~~] offenses for  
7 which the person was convicted [e~~f~~]. No record of conviction  
8 [e~~o~~] transmitted and maintained in the statewide traffic records  
9 system shall be used for purposes other than the licensing of  
10 drivers.

11 (b) Within ten days of an in-state conviction[~~7~~] and  
12 within ten days of the receipt of notice of an out-of-state  
13 conviction, the examiner of drivers shall record and maintain as  
14 part of the driver's record:

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

21 (2) All convictions, disqualifications, and other  
22 licensing actions for violations both in this State



1 and out-of-state, of any law relating to motor vehicle  
2 traffic control, other than a parking violation,  
3 committed while the driver was operating a commercial  
4 motor vehicle[7] and was required to have a commercial  
5 driver's license.

6 (c) No commercial driver's license driver's conviction for  
7 any violation[7] in any type of motor vehicle[7] of a state or  
8 local traffic control law, except a parking violation, shall be  
9 expunged or subject to deferred imposition of judgment[7] nor  
10 shall an individual be allowed to enter into a diversion program  
11 that would prevent the conviction from appearing on the driver's  
12 driving record, whether the driver was convicted for an offense  
13 committed in this State or another state.

14 (d) The state judiciary and the examiner of drivers shall  
15 make available to the greatest extent possible information from  
16 any driver's record required [by] for enforcement of this  
17 section [~~to the greatest extent possible,~~7] to the users  
18 designated in subsection (f) [7] or their authorized agent,  
19 within ten days of:

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





1 (2) Receiving the conviction information for a violation  
2 occurring in 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~~] if  
6 required under Title 49 Code of Federal Regulations Section  
7 384.231(d).

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

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

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

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

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

21 (g) The traffic violations bureaus of the district courts,  
22 upon request, shall furnish users designated in subsection



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

10 (h) Beginning January 30, 2012, the examiner of drivers  
11 shall:

12 (1) Post on the commercial driver's license information  
13 system and maintain as part of the driver's record the  
14 driver's self-certification of type of driving under  
15 49 Code of Federal Regulations Section  
16 383.71(a)(1)(ii);

17 (2) Retain for at least three years after the date of  
18 issuance the original or a copy of the medical  
19 certificate of any driver required to provide  
20 documentation of physical qualification;

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



- 1           driver's license information system driver record,
- 2           including:
- 3           (A) The medical examiner's name;
- 4           (B) The medical examiner's telephone number;
- 5           (C) The date of issuance of the medical examiner's
- 6                   certificate;
- 7           (D) The medical examiner's license number and the
- 8                   state that issued it;
- 9           (E) The medical examiner's identification number
- 10                   issued by the National Registry of Medical
- 11                   Examiners as required by 49 United States Code
- 12                   31149(d);
- 13           (F) The driver's medical certification status as
- 14                   certified or not-certified;
- 15           (G) The expiration date of the medical examiner's
- 16                   certificate;
- 17           (H) The existence of any medical variance on the
- 18                   medical certificate, such as an exemption or
- 19                   skill performance evaluation;
- 20           (I) Any restrictions including corrective lenses,
- 21                   hearing aids, and requirement to have possession



1                   of an exemption letter or skill performance  
2                   evaluation certificate while on-duty;  
3           (J)   The date the medical examiner's certificate  
4                   information was posted to the commercial driver's  
5                   license information system driver record; and  
6           (K)   A record of the commercial driver's license  
7                   downgrade within sixty days of the driver's  
8                   medical certification status becoming not-  
9                   certified to operate under a commercial driver's  
10                  license."

11           SECTION 8. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13           SECTION 9. This Act shall take effect upon its approval.  
14



**Report Title:**

Commercial Driver Licensing

**Description:**

Amends seven sections of the Hawaii Revised Statutes relating to the commercial driver licensing process and driver medical requirements in order to comply with Federal Motor Carrier Safety Regulations. (SD1)

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

