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A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

1 SECTION 1. Chapter 286, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§286- Commercial learner's permit. (a) A commercial  
5 learner's permit shall be tamperproof; be marked with the words  
6 "commercial learner's permit" or "CLP" displayed prominently;  
7 include a statement that it is not valid for driving a  
8 commercial motor vehicle unless presented with the underlying  
9 commercial driver's license or non-commercial driver's license;  
10 and shall include, but not be limited to, the following with  
11 respect to the licensee:

- 12 (1) The full name and current mailing, residential, and  
13 business addresses;  
14 (2) A physical description including sex and height;  
15 (3) Date of birth;  
16 (4) Signature;  
17 (5) The date of issuance and the date of expiration of the  
18 permit; and

1        (6) The driver's state license number.

2        The commercial learner's permit shall not contain a photograph,  
3        digitized image, or other visual representation of the driver.

4        (b) A commercial learner's permit may be issued with the  
5        following vehicle categories:

6        (1) Category A - Any combination of vehicles with a gross  
7        combination weight rating of 26,001 pounds or more;  
8        provided that the gross vehicle weight rating of the  
9        vehicles being towed is in excess of 10,000 pounds;

10       (2) Category B - Any single vehicle with a gross vehicle  
11       weight rating of 26,001 pounds or more, or any such  
12       vehicle towing a vehicle not in excess of 10,000  
13       pounds;

14       (3) Category C - Any single vehicle or combination of  
15       vehicles that meets neither the definition of category  
16       A nor that of category B, but that is either:

17       (A) Designed to transport sixteen or more passengers;  
18       or

19       (B) Used in the transportation of hazardous materials  
20       that require the vehicle to comply with title 49  
21       Code of Federal Regulations, part 172, subpart F.

1        (c) A commercial learner's permit may be issued with any  
2 one or more of the following endorsements and restrictions:

3        (1) "P" - endorsement authorizes driving passenger  
4 carrying vehicles; a commercial learner's permit  
5 holder with a "P" endorsement is prohibited from  
6 operating a commercial motor vehicle carrying  
7 passengers, other than federal or state auditors and  
8 inspectors, test examiners, other trainees, and the  
9 commercial driver's license holder accompanying the  
10 commercial learner's permit holder; this endorsement  
11 is vehicle class specific;

12       (2) "N" - endorsement authorizes driving tank vehicles; a  
13 commercial learner's permit holder with an "N"  
14 endorsement may only operate with an empty tank  
15 vehicle and is prohibited from operating any tank  
16 vehicle that previously contained hazardous materials  
17 that has not been purged of all residue;

18       (3) "S" - endorsement authorizes driving school buses; a  
19 commercial learner's permit holder with an "S"  
20 endorsement is prohibited from operating a commercial  
21 motor vehicle carrying passengers, other than federal  
22 or state auditors and inspectors, test examiners,

1 other trainees, and the commercial driver's license  
2 holder accompanying the commercial learner's permit  
3 holder; this endorsement is vehicle class specific;

4 (4) "P" - restriction restricts the driver from carrying  
5 passengers other than federal or state auditors and  
6 inspectors, test examiners, other trainees, and the  
7 commercial driver's license holder accompanying the  
8 commercial learner's permit holder; or

9 (5) "X" - restriction restricts the driver from carrying  
10 cargo in a commercial motor vehicle tank and prohibits  
11 operating any tank vehicle that previously contained  
12 hazardous materials that has not been purged of any  
13 residue.

14 (d) If the commercial learner's permit is a non-domiciled  
15 commercial learner's permit, it must contain the prominent  
16 statement that the permit is a "non-domiciled commercial  
17 learner's permit", or "non-domiciled CLP", as appropriate; the  
18 word "non-domiciled" must be conspicuously and unmistakably  
19 displayed, but may be noncontiguous with the words "commercial  
20 learner's permit", or "CLP".

1        (e) Before issuing a commercial learner's permit, the  
2 examiner of drivers shall complete a check of the applicant's  
3 driving record as provided in section 286-239(e) or 286-239(f)."

4        SECTION 2. Section 286-102, Hawaii Revised Statutes, is  
5 amended by amending subsection (c) to read as follows:

6        "(c) No person shall receive a driver's license without  
7 surrendering to the examiner of drivers all valid driver's  
8 licenses in the person's possession. All licenses so  
9 surrendered shall be ~~[returned to the issuing authority,~~  
10 ~~together with information that the person is licensed in this~~  
11 ~~State,]~~ shredded; provided that with the exception of driver's  
12 licenses issued by any Canadian province, a foreign driver's  
13 license may be returned to the owner after being invalidated  
14 pursuant to issuance of a Hawaii license; ~~[and]~~ provided further  
15 that the examiner of drivers shall notify the authority that  
16 issued the foreign license that the license has been invalidated  
17 and returned because the owner is now licensed in this State~~[-]~~;  
18 and provided further that all commercial driver's licenses that  
19 are surrendered shall be shredded. No person shall be permitted  
20 to hold more than one valid driver's license at any time."

21        SECTION 3. Section 286-231, Hawaii Revised Statutes, is  
22 amended as follows:

1           1.       By adding the following new definitions to be  
2 appropriately inserted and to read as follows:

3           "Non-domiciled commercial learner's permit" means a  
4 commercial learner's permit issued by a state under either of  
5 the following two conditions:

6           (1) To an individual domiciled in a foreign country  
7           meeting the requirements of Title 49, Code of Federal  
8           Regulations Section 383.23(b) (1); or

9           (2) To an individual domiciled in another state meeting  
10           the requirements of Title 49, Code of Federal  
11           Regulations Section 383.23(b) (2).

12           "Tank vehicle" means any commercial vehicle that is  
13 designed to transport any liquid or gaseous materials within a  
14 tank or tanks having an individual rated capacity of more than  
15 119 gallons and an aggregate rated capacity of 1,000 gallons or  
16 more that is either permanently or temporarily attached to the  
17 vehicle or the chassis; a commercial motor vehicle transporting  
18 an empty storage container tank, not designed for transportation  
19 with a rated capacity of 1,000 gallons or more that is  
20 temporarily attached to a flatbed trailer is not considered a  
21 tank vehicle."

1           2. By amending the definitions of "endorsement",  
2 "nonresident commercial driver's license", "serious traffic  
3 violation", and "texting" to read as follows:

4            "Endorsement" means an authorization on an individual's  
5 commercial driver's license or commercial learner's permit  
6 required to permit the individual to operate certain types of  
7 commercial motor vehicles.

8           ~~["Nonresident"]~~ "Non-domiciled commercial driver's license"  
9 means a commercial driver's license issued by a state under  
10 either of the following two conditions:

11           (1) To an individual domiciled in a foreign country  
12           meeting the requirements of Title 49, Code of Federal  
13           Regulations Section 383.23(b)(1); or

14           (2) To an individual domiciled in another state meeting  
15           the requirements of Title 49, Code of Federal  
16           Regulations Section 383.23(b)(2).

17           "Serious traffic violation" means conviction of any of the  
18 following offenses when operating a commercial motor vehicle,  
19 except for weight, defect, and parking violations:

20           (1) Excessive speeding involving any single offense for  
21           any speed of fifteen miles per hour or more above the  
22           posted speed limit;

- 1           (2) Reckless driving or driving a commercial motor vehicle  
2                    in disregard of the safety of persons or property,  
3                    including but not limited to offenses of driving a  
4                    commercial motor vehicle in willful or wanton  
5                    disregard for the safety of persons or property;
- 6           (3) Improper or erratic traffic lane changes;
- 7           (4) Following a vehicle ahead too closely;
- 8           (5) A violation of any state or local law relating to  
9                    motor vehicle traffic control, other than a parking  
10                   violation, arising in connection with a fatal traffic  
11                   accident;
- 12          (6) Driving a commercial motor vehicle without obtaining a  
13                   commercial learner's permit or a commercial driver's  
14                   license;
- 15          (7) Driving a commercial motor vehicle without a  
16                   commercial learner's permit or a commercial driver's  
17                   license in the driver's possession; provided that this  
18                   paragraph shall not apply to a citation issued under,  
19                   or an offense disposed of pursuant to section 286-  
20                   116(a) or a substantially similar provision of law in  
21                   another state;



1 (8) Driving a commercial motor vehicle without the proper  
2 class or endorsements of commercial driver's license  
3 or commercial learner's permit for the specific  
4 vehicle group being operated or for the passengers or  
5 type of cargo being transported; [~~or~~]

6 (9) Texting while driving in violation of a state or  
7 county law or ordinance[~~-~~]; or

8 (10) Using a mobile electronic device in violation of a  
9 state or a county law or ordinance.

10 "Texting" means manually entering alphanumeric text into,  
11 or reading text from, an electronic device, and includes short  
12 message service; e-mailing; instant messaging; a command or  
13 request to access a world wide web page; pressing more than a  
14 single button to initiate or terminate a voice communication  
15 using a mobile telephone; and engaging in any other form of  
16 electronic text retrieval or entry, for present or future  
17 communication.

18 "Texting" does not include:

19 (1) Reading, selecting, or entering a telephone number, an  
20 extension number, or voicemail retrieval codes and  
21 commands into an electronic device for the purpose of  
22 initiating or receiving a phone call or using voice

- 1 commands to initiate or receive a telephone call;
- 2 (2) Inputting, selecting, or reading information on a  
3 global positioning system or navigation system[+] or  
4 pressing a single button to initiate or terminate a  
5 voice communication using a mobile telephone; or
- 6 (3) Using a device capable of performing multiple  
7 functions, including fleet management systems,  
8 dispatching devices, smart phones, citizens band  
9 radios, and music players, for a purpose that is not  
10 otherwise prohibited [~~in this part~~]."

11 SECTION 4. Section 286-233, Hawaii Revised Statutes, is  
12 amended by amending subsection (a) to read as follows:

13 "(a) Any driver of a commercial motor vehicle holding a  
14 commercial driver's license or a commercial learner's permit  
15 issued by this State who is convicted of violating any state law  
16 or local ordinance relating to motor vehicle traffic control in  
17 any other state, or federal, provincial, territorial, or  
18 municipal laws of Canada or Mexico, other than parking  
19 violations, in any type of motor vehicle, shall notify the  
20 examiner of drivers in the manner specified by the director  
21 within thirty days of the date of conviction. Any driver of a  
22 commercial motor vehicle holding a commercial driver's license

1 or a commercial learner's permit issued by this State, who is  
2 convicted of violating any state law or local ordinance relating  
3 to motor vehicle traffic control in this or any other state, or  
4 federal, provincial, territorial, or municipal laws of Canada or  
5 Mexico, other than parking violations, in any type of motor  
6 vehicle, shall notify the person's current employer in writing  
7 of the conviction within thirty days of the date of conviction."

8 SECTION 5. Section 286-234, Hawaii Revised Statutes,  
9 is amended by amending subsection (b) to read as follows:

10 "(b) No employer shall knowingly allow, require, permit,  
11 or authorize a driver to drive a commercial motor vehicle:

12 (1) During any period in which the driver has a driver's  
13 license or permit suspended, revoked, or canceled by a  
14 state, has lost the privilege to drive a commercial  
15 motor vehicle in a state, or has been disqualified  
16 from driving a commercial motor vehicle;

17 (2) During any period in which the driver has more than  
18 one driver's license;

19 (3) During any period in which the driver, or the  
20 commercial motor vehicle the driver is driving, or the  
21 motor carrier operation, is subject to an out-of-  
22 service order; [øx]

1        (4) During any period in which the driver does not have a  
2                    current commercial learner's permit or commercial  
3                    driver's license or does not have the proper class,  
4                    restrictions and endorsements; or

5        [~~4~~] (5) In violation of a federal, state, or local law  
6                    or regulation pertaining to railroad-highway grade  
7                    crossings."

8        SECTION 6. Section 286-235, Hawaii Revised Statutes, is  
9        amended by amending subsection (a) to read as follows:

10        "(a) No person shall drive a commercial motor vehicle  
11        unless the person holds a valid commercial driver's license and  
12        valid applicable endorsements and restrictions for the vehicle  
13        the person is driving, except when driving under a commercial  
14        [~~driver's instruction~~] learner's permit and accompanied by the  
15        holder of a valid commercial driver's license for the vehicle  
16        being driven."

17        SECTION 7. Section 286-236, Hawaii Revised Statutes, is  
18        amended to read as follows:

19        **"§286-236 Commercial driver's license qualification**  
20        **standards.** (a) No person shall be issued a commercial driver's  
21        license unless that person meets the qualification standards of  
22        Title 49 Code of Federal Regulations, Part 391, Subparts B and

1 E, has passed a knowledge and driving skills test for driving a  
2 commercial motor vehicle that complies with minimum federal  
3 standards established by federal regulation enumerated in Title  
4 49 Code of Federal Regulations, Part 383, Subparts G and H, is  
5 domiciled in this State as defined in Title 49 Code of Federal  
6 Regulations, Part 383.5, and has satisfied all other  
7 requirements of the Commercial Motor Vehicle Safety Act of 1986,  
8 Public Law 99-570, Title XII, in addition to other requirements  
9 imposed by state law or federal regulation. The tests shall be  
10 prescribed by the director and administered by the respective  
11 county examiner of drivers. The test examiners may communicate  
12 with the applicant only in English during the skills test. As  
13 of January 30, 2012, the examiner of drivers shall verify that  
14 the medical certification status of a driver who self-certified  
15 according to Title 49 Code of Federal Regulations section  
16 383.71(a)(1)(ii)(A), non-excepted interstate, is certified. If  
17 a driver submits a current medical examiner's certificate, the  
18 examiner of drivers shall date-stamp the certificate and post  
19 all required information to the commercial driver's license  
20 information system pursuant to Title 49 Code of Federal  
21 Regulations section 383.73(a)(5) and in accordance with Title 49  
22 Code of Federal Regulations section 383.73(j). A person who is

1 not physically qualified to drive under Title 49 Code of Federal  
2 Regulations section 391.41(b)(1), (2), or (3) and who is  
3 otherwise qualified to drive a motor vehicle may be granted an  
4 intrastate waiver by the director. The process for granting  
5 intrastate waivers shall be the same as that for interstate  
6 waivers in Title 49 Code of Federal Regulations section 391.49,  
7 except that the intrastate waiver requests shall be submitted to  
8 the director; provided that the director shall adopt rules under  
9 chapter 91 to establish a screening process, including approval  
10 by a licensed physician, for granting an intrastate waiver to  
11 persons who are not physically qualified under Title 49 Code of  
12 Federal Regulations section 391.41(b)(3).

13 (b) Pursuant to chapter 91, the director may authorize a  
14 third party examiner to administer the driving skills test  
15 specified in this section, provided:

16 (1) The test is the same as that administered by the  
17 respective county examiners of drivers; and

18 (2) The third party examiner has entered into an agreement  
19 with the State which complies with requirements of 49  
20 Code of Federal Regulations, Section 383.75.

21 (c) The examiner of drivers may waive the driving skills  
22 test specified in this section for a commercial driver's license

1 applicant who meets the requirements of 49 Code of Federal  
2 Regulations Section 383.77 or 383.123(b).

3 (d) A commercial driver's license or commercial [~~driver's~~  
4 ~~instruction~~] learner's permit, including a provisional or  
5 temporary license or permit, shall not be issued to a person  
6 while the person is subject to a disqualification from driving a  
7 commercial motor vehicle, or while the person's driver's license  
8 is suspended, revoked, or canceled in any state; or while the  
9 person holds a driver's license issued by any other state unless  
10 the person first surrenders that license.

11 (e) A commercial [~~driver's instruction~~] learner's permit  
12 may be issued to an individual who holds a valid driver's  
13 license, is at least eighteen years of age, meets the  
14 qualification standards of 49 Code of Federal Regulations, Part  
15 391, Subparts B and E, and has passed the written tests required  
16 for the desired class of a commercial driver's license.

17 (f) The commercial [~~driver's instruction~~] learner's  
18 permit shall not be valid for a period in excess of [~~one year.~~]  
19 180 days. When driving a commercial motor vehicle, the holder  
20 of a commercial [~~driver's instruction~~] learner's permit shall be  
21 accompanied by a person [~~licensed~~] with a valid commercial  
22 driver's license to operate that category of commercial motor

1 vehicle [-] with the proper endorsements. The licensed person  
2 shall occupy the seat beside the individual for the purpose of  
3 giving instruction in driving the commercial motor vehicle. The  
4 commercial learner's permit may be [~~reissued~~] renewed [~~after~~] no  
5 more than an additional 180 days without requiring the  
6 commercial learner's permit holder to retake the general and or  
7 endorsement knowledge tests, and the applicant requalifies  
8 meeting the requirements of subsection (e). The commercial  
9 learner's permit holder is eligible to take the commercial  
10 driver's license skills test fourteen days after obtaining the  
11 permit.

12 (g) The examiner of drivers may waive the knowledge and  
13 skills tests specified in this section for any person who is at  
14 least twenty-one years of age and who possesses a valid  
15 commercial driver's license issued by any state of the United  
16 States, Mexico, or a province of Canada that issues licenses in  
17 accordance with the minimum federal standards for the issuance  
18 of commercial driver's licenses. The examiner of drivers shall  
19 accept a commercial learner's permit holder's skills test  
20 results outside of his or her state of domicile. The testing  
21 state shall send the skills test results to the State of Hawaii.  
22 The State of Hawaii shall accept the results of the skills test



1 and, if the applicant passed, and meets all other requirements,  
2 shall issue a commercial driver's license. To retain a  
3 hazardous materials endorsement, the applicant shall pass the  
4 knowledge test for a hazardous materials endorsement and be  
5 determined by the federal Transportation Security Administration  
6 not to pose a security risk warranting denial of the  
7 endorsement.

8 (h) Every applicant shall successfully complete the  
9 commercial driver's license general knowledge test before being  
10 issued a commercial learner's permit. A driver holding a valid  
11 commercial driver's license who seeks an upgrade for which a  
12 skills test is required must also pass the appropriate knowledge  
13 test prior to obtaining a commercial learner's permit."

14 SECTION 8. Section 286-238, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16 "(a) The application for a commercial driver's license or  
17 commercial [~~driver's instruction~~] learner's permit shall include  
18 the following with respect to the applicant:

- 19 (1) The full name and current mailing, residential, and  
20 business addresses;
- 21 (2) A physical description including sex and height;
- 22 (3) Date of birth;

- 1       (4) Social security number;
- 2       (5) Signature;
- 3       (6) Color photograph~~[+]~~, digitized color image or black  
4       and white laser engraved photograph of the driver;
- 5       (7) Certifications including those required by 49 Code of  
6       Federal Regulations, §383.71(a), except that this  
7       certification applies to both intrastate and  
8       interstate drivers;
- 9       (8) The names of all states where the applicant has  
10       previously been licensed to drive any type of motor  
11       vehicle during the previous ten years; and
- 12       (9) Any other information required by section 286-111.

13 The applicant shall produce proof of residency to show the  
14 applicant's state of domicile as defined in 49 Code of Federal  
15 Regulations [~~Part~~] section 383.5."

16       SECTION 9. Section 286-239, Hawaii Revised Statutes, is  
17 amended as follows:

18       1. By amending subsection (a) to read as follows:

19       "(a) The commercial driver's license shall be marked "CDL"  
20 and, to the maximum extent practicable, shall be tamper-proof  
21 and include, but not be limited to, the following with respect  
22 to the licensee:

- 1 (1) The name and residence address;
- 2 (2) A color photograph[+], digitized color image, or black
- 3 and white laser engraved photograph of the driver;
- 4 (3) A physical description including sex and height;
- 5 (4) Date of birth;
- 6 (5) A commercial driver's license number that shall not be
- 7 the licensee's social security number;
- 8 (6) Signature;
- 9 (7) The class or type of commercial motor vehicle or
- 10 vehicles which may be driven together with any
- 11 endorsements or restrictions;
- 12 (8) The name of this State; and
- 13 (9) The issuance and expiration dates of the license."
- 14 2. By amending subsection (c) to read as follows:
- 15 "(c) Commercial drivers' licenses may be issued with any
- 16 one or more of the following endorsements and restrictions:
- 17 (1) "H" - Authorizes the driver to drive a vehicle
- 18 transporting hazardous materials;
- 19 (2) [~~KL~~] "L" - Restricts the driver to vehicles not
- 20 equipped with air brakes;
- 21 (3) "T" - Authorizes driving double and triple trailers;
- 22 (4) "P" - Authorizes driving vehicles carrying passengers;

- 1 (5) "N" - Authorizes driving tank vehicles;
- 2 (6) "X" - Represents a combination of hazardous materials
- 3 and tank vehicle endorsements;
- 4 (7) "S" - Authorizes driving school buses;
- 5 (8) "V" - Indicates there is information about a medical
- 6 variance on the commercial driver's license
- 7 information system driver record; [~~and~~]
- 8 (9) [~~"W"~~] "K" - Restricts the driver from operating in
- 9 interstate commerce as defined in Title 49 Code of
- 10 Federal Regulations section 390.5[-];
- 11 (10) "Z" - Restricts the driver to vehicles not equipped
- 12 with full air brakes;
- 13 (11) "E" - Restricts the driver to vehicles not equipped
- 14 with any manual transmission;
- 15 (12) "O" - Restricts the driver to non tractor trailer
- 16 commercial motor vehicles;
- 17 (13) "M" - Restricts the driver from operating a class A
- 18 passenger vehicle; and
- 19 (14) "N" - Restricts the driver from operating a class A
- 20 and B passenger vehicle."

21 SECTION 10. Section 286-240, Hawaii Revised Statutes, is  
22 amended as follows:

1           1. By amending subsection (a) to read as follows:

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

5           (1) Driving a motor vehicle under the influence of  
6 alcohol, a controlled substance, or any drug that  
7 impairs driving ability;

8           (2) Driving a commercial motor vehicle while the alcohol  
9 concentration of the driver's blood is 0.04 or more  
10 grams of alcohol per two hundred ten liters of breath  
11 or 0.04 or more grams of alcohol per one hundred  
12 milliliters or cubic centimeters of blood;

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;

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 or commercial learner's permit is  
3 revoked, suspended, or canceled, or the driver is  
4 otherwise disqualified from operating a commercial  
5 motor vehicle; or

6 (8) Causing a fatality through the operation of a  
7 commercial motor vehicle, including through the  
8 commission of the crimes of manslaughter and negligent  
9 homicide in any degree."

10 2. By amending subsection (f) to read as follows:

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

20 SECTION 11. Section 286-241, Hawaii Revised Statutes, is  
21 amended by amending subsection (a) to read as follows:

1           "(a) After disqualifying a person, or suspending,  
2 revoking, canceling, or marking a medical certification status  
3 as not-certified for a commercial driver's license or a  
4 commercial learner's permit, the examiner of drivers shall  
5 update all records to reflect that action within ten days. Any  
6 disqualification imposed in accordance with section 286-240(j)  
7 and transmitted by the Federal Motor Carrier Safety  
8 Administration shall become a part of the driving record. After  
9 suspending, revoking, or canceling a nonresident commercial  
10 driver's license or a commercial learner's permit, the examiner  
11 of drivers shall notify the licensing authority of the state  
12 that issued the commercial driver's license or commercial  
13 learner's permit within ten days. The notification shall include  
14 information regarding any disqualification and the violation or  
15 violations that resulted in the disqualification, revocation,  
16 suspension, or cancellation."

17           SECTION 12. Section 286-241.4, Hawaii Revised Statutes, is  
18 amended by amending subsections (a) through (c) to read as  
19 follows:

20           "(a) The examiner of drivers may suspend, revoke, cancel,  
21 mark the medical certification status as not-certified, or  
22 downgrade any commercial driver's license or commercial

1 learner's permit without a hearing when the examiner of drivers  
2 has probable cause to believe that the licensee is disqualified  
3 under section 286-240.

4 (b) The examiner of drivers shall deny or suspend any  
5 commercial driver's license or commercial learner's permit  
6 pursuant to the terms of [+]section[+] 576D-13 when the examiner  
7 of drivers receives certification from the child support  
8 enforcement agency that the licensee is not in compliance with  
9 an order of support as defined in section 576D-1 or has failed  
10 to comply with a subpoena or warrant relating to a paternity or  
11 child support proceeding. Both the licensee and the licensee's  
12 employer shall be notified of the suspension.

13 (c) Upon suspension, revocation, or cancellation of the  
14 commercial driver's license or commercial learner's permit, the  
15 driver's license or permit shall be surrendered to the examiner  
16 of drivers by the licensee or permittee."

17 SECTION 13. Section 286-241.5, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§286-241.5 Notification and hearing.** When the examiner of  
20 drivers suspends, revokes, or cancels a commercial driver's or a  
21 commercial learner's permit under section 286-241.4(a), the



1 examiner of drivers shall immediately notify the licensee and  
2 afford the licensee an opportunity for hearing."

3 SECTION 14. Section 286-244, Hawaii Revised Statutes,  
4 is amended by amending subsections (a) and (b) to read as  
5 follows:

6 "(a) Whenever a person who holds a commercial driver's  
7 license or a commercial learner's permit from another state is  
8 convicted of a violation of any state or county law relating to  
9 motor vehicle traffic control, other than a parking violation,  
10 in any type of vehicle, the examiner of drivers shall notify the  
11 licensing entity in the state where the driver is licensed of  
12 this conviction within the time period specified in subsection  
13 (c).

14 (b) Whenever a person who does not hold a commercial  
15 driver's license or a commercial learner's permit but is  
16 licensed to drive by another state is convicted of a violation  
17 in a commercial motor vehicle of any state or county law  
18 relating to motor vehicle traffic control, other than a parking  
19 violation, the examiner of drivers shall notify the licensing  
20 entity in the state where the driver is licensed of this  
21 conviction within the time period specified in subsection (c)."

1 SECTION 15. Section 286-245, Hawaii Revised Statutes, is  
2 amended by amending subsections (a) through (c) to read as  
3 follows:

4 "(a) Whenever a person is convicted of a moving traffic  
5 violation based on a statute, ordinance, or rule, fails to  
6 appear for a hearing, trial, or other court or administrative  
7 proceeding on the moving traffic violation, or fails to pay a  
8 fine or court cost ordered for a moving violation, the state  
9 judiciary shall forward to the examiner of drivers the record of  
10 the conviction. The record of conviction shall include whether  
11 the offender was operating a commercial motor vehicle at the  
12 time of the offense, whether the offender was transporting  
13 hazardous materials requiring placarding under Title 49 Code of  
14 Federal Regulations Part 172, Subpart F, the citation date, the  
15 conviction date, the citation number, the court in which the  
16 conviction occurred, and the offenses for which the person has  
17 been convicted. No record of conviction transmitted and  
18 maintained in the statewide traffic records system shall be used  
19 for purposes other than the licensing of drivers, including any  
20 record of:

- 1           (1) Driving a motor vehicle under the influence of  
2            alcohol, a controlled substance, or any drug that  
3            impairs driving ability;
- 4           (2) Driving a commercial motor vehicle while the alcohol  
5            concentration of the driver's blood is 0.04 [~~per cent~~  
6            ~~or more by weight,~~] or more grams of alcohol per two  
7            hundred ten liters of breath or 0.04 or more grams of  
8            alcohol per one hundred milliliters or cubic  
9            centimeters of blood;
- 10          (3) Refusing to submit to a test to determine the driver's  
11          alcohol concentration while driving a motor vehicle as  
12          required under sections 286-243 and 291E-11;
- 13          (4) Using a motor vehicle in the commission of any felony;
- 14          (5) Leaving the scene of an accident involving the motor  
15          vehicle driven by the person;
- 16          (6) Unlawful transportation, possession, or use of a  
17          controlled substance while on duty;
- 18          (7) Driving a commercial motor vehicle if, as a result of  
19          prior violations committed while operating a  
20          commercial motor vehicle, the driver's commercial  
21          learner's permit or commercial driver's license has  
22          been revoked, suspended, or canceled, or the driver

1 has been otherwise disqualified from operating a  
2 commercial motor vehicle; or

3 (8) Causing a fatality through the operation of a  
4 commercial motor vehicle, including in the commission  
5 of the crimes of manslaughter and negligent homicide  
6 in any degree.

7 (b) Within ten days of an in-state conviction and within  
8 ten days of the receipt of notice of an out-of-state conviction,  
9 the examiner of drivers shall record and maintain as part of the  
10 driver's record:

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

18 (2) All convictions, disqualifications, and other  
19 licensing actions for violations in this State and  
20 out-of-state, of any law relating to motor vehicle  
21 traffic control, other than a parking violation,  
22 committed while the driver was operating a commercial

1 motor vehicle and was required to have a commercial  
2 learner's permit or commercial driver's license.

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

12 SECTION 16. Section 286-248, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "§286-248 Reciprocity. Notwithstanding any law to the  
15 contrary, a person may drive a commercial motor vehicle if the  
16 person has a commercial driver's license or a non-domiciled  
17 commercial learner's permit, for training purposes, and is  
18 accompanied by the holder of a valid commercial driver's license  
19 for the vehicle being driven, issued by any state, Mexico, or  
20 province or territory of Canada that issues licenses in  
21 accordance with the minimum federal standards for the issuance  
22 of commercial motor vehicle driver's licenses, if the person's

1 driver's license or commercial learner's permit is not  
2 suspended, revoked, or canceled; and if the person is not  
3 disqualified from driving a commercial motor vehicle, or subject  
4 to an out-of-service order."

5 SECTION 17. Section 286-249, Hawaii Revised Statutes, is  
6 amended by amending subsection (a) to read as follows:

7 "(a) Any person who drives a commercial motor vehicle in  
8 the state without a valid commercial driver's license or  
9 commercial learner's permit, or while the person's driving  
10 privileges are suspended, revoked, or canceled, or while  
11 disqualified from driving a commercial motor vehicle, shall be:

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

16 provided that the court shall have discretion to impose either a  
17 fine or imprisonment, or both."

18 SECTION 18. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

H.B. NO. 977

1 SECTION 19. This Act shall take effect upon its approval.

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INTRODUCED BY:   
BY REQUEST

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JAN 22 2013

H.B. NO. 911

**Report Title:**

Transportation; Federal Regulations; Conformity

**Description:**

Conforms state law to the most recent federal regulations to ensure that the Hawaii laws parallel the federal regulations relating to commercial driver licensing.

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



JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO TRANSPORTATION.

PURPOSE: Bring the State into compliance with the most recent federal regulations relating to commercial driver licensing.

MEANS: Add a new section to chapter 286 and amend sections 286-102(c), 286-231, 286-233(a), 286-234(b), 286-235(a), 286-236, 286-238(a), 286-239(a) and (c), 286-240(a) and (f), 286-241(a), 286-241.4(a)-(c), 286-241.5, 286-244(a) and (b), 286-245(a)-(c), 286-248, and 286-249(a), Hawaii Revised Statutes(HRS).

JUSTIFICATION: The intent of the proposed changes is to ensure that the Hawaii laws parallel the federal regulations.

Section 1 of the bill contains a proposed new section 286- , which is added to make the statutes conform to Title 49 Code of Federal Regulations (CFR) section 383.153(b). The required information on a commercial learner's permit (CLP) includes CLP classes, endorsements, restrictions and other markings. The examiner of drivers is required to check a CLP applicant's driving record before issuing a CLP.

Section 286-102 (section 2 of the bill) is amended to conform to 49 CFR section 383.73(i) by requiring surrendered commercial driver's licenses (CDLs) to be shredded.

Section 286-231 (section 3 of the bill) is amended to conform to 49 CFR sections 383.5, 383.23(b), 383.51(c), 383.71(2)(iii), and 383.73(f) by adding a definition of a tank vehicle; by adding the term "commercial learner's permit" to the definitions of "endorsement" and "serious violation"; by

adding the term "non-domiciled commercial learner's permit"; by adding detail to the definition of texting; by changing the term "nonresident" to "non-domiciled"; and by adding the term "commercial learner's permit."

Section 286-233(a) (section 4 of the bill) is amended to conform to 49 CFR sections 383.5 and 383.51(a)(3) by adding the term "commercial learner's permit" to the requirement to notify the examiner of drivers of a conviction and disqualification.

Section 286-234(b) (section 5 of the bill) is amended to conform to 49 CFR section 383.37(a) and Appendix B to part 385 by prohibiting an employer from allowing an employee to drive a commercial motor vehicle without a current permit or license with proper restrictions and endorsements.

Section 286-235 (section 6 of the bill) is amended to conform to 49 CFR section 383.25(a) by changing the term "instruction permit" to "commercial learner's permit".

Section 286-236 (section 7 of the bill) is amended to conform to 49 CFR sections 383.5, 383.25(a), 383.71(a)(2), 383.73(a)(2), 383.79(a) and (b), 383.93(a)(2), 383.133(c)(5), and 383.153(a) by adding "commercial learner's permit"; establishing a new minimum age for a permit holder; setting new minimum uniform standards for issuing a CLP; modifying the testing method to allow only the use of English during skills testing; and requiring the examiner of drivers to accept skill test scores from other states. A new subsection addresses the requirement for obtaining a CLP and a license upgrade for a CDL holder.

Section 286-238 (section 8 of the bill) is amended to conform to 49 CFR section 383.153(a)(4) by allowing a digitized or

black and white laser engraved photograph to be a part of the application.

Section 286-239 (section 9 of the bill) is amended to conform to 49 CFR sections 383.153(a) and 384.227(a). Digitized or black and white laser engraved photographs also are allowed on the CDL; CDL restriction codes are added and modified.

Sections 286-240, 286-241, 286-241.4, 286-241.5, 286-244, 286-245, and 286-249 (sections 10, 11, 12, 13, 14, 15 and 17 of the bill) are amended to conform to 49 CFR sections 383.5, 383.51, 383.71, 383.73, 384.208, and 384.209 by adding the term "commercial learner's permit" to existing sections of chapter 286 HRS.

Section 286-248 (section 16 of the bill) is amended to conform to 49 CFR sections 383.73(1) and 384.214. The amendment provides reciprocity for a non-domiciled CLP holder in Hawaii.

Failure to enact the changes recommended by the Federal Motor Carrier Safety Administration could result in the loss of approximately \$5,500,000 (or 5 percent of \$109,016,036 federal-aid highway funds based on fiscal year 2010-2011 funding) for the first year of non-compliance and \$10,900,000 (or 10 percent) per year thereafter.

Impact on the public: This bill will increase highway safety by helping to ensure that commercial vehicles are operated by holders of valid commercial driver's licenses or commercial learner's permits.

Impact on the department and other agencies: County computer programming will be required to accommodate the changes, and the county licensing offices will need to make some operational changes.

GENERAL FUND: None.

OTHER FUNDS: Unknown amount.

PPBS PROGRAM  
DESIGNATION: TRN 597.

OTHER AFFECTED  
AGENCIES: County driver licensing offices, especially those that issue CDLs and CLPs; law enforcement officers.

EFFECTIVE DATE: Upon approval.