

S.B. NO. 2898

JAN 23 2014

A BILL FOR AN ACT

RELATING TO COMMERCIAL DRIVER'S LICENSING.

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

1 SECTION 1. Section 286-236, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "**§286-236 Commercial driver's license qualification**
4 **standards.** (a) No person shall be issued a commercial driver's
5 license unless that person meets the qualification standards of
6 title 49 Code of Federal Regulations, part 391, subparts B and
7 E, has passed a knowledge and driving skills test for driving a
8 commercial motor vehicle that complies with minimum federal
9 standards established by federal regulation enumerated in title
10 49 Code of Federal Regulations, part 383, subparts G and H, is
11 domiciled in this State as defined in title 49 Code of Federal
12 Regulations, part 383.5, and has satisfied all other
13 requirements of the Commercial Motor Vehicle Safety Act of 1986,
14 Public Law 99-570, title XII, in addition to other requirements
15 imposed by state law or federal regulation. The tests shall be
16 prescribed by the director and administered by the respective
17 county examiner of drivers. The test examiners shall
18 communicate with the applicant only in English during the skills

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

1 ~~[(b) Pursuant to chapter 91, the director may authorize a~~
2 ~~third party examiner to administer the driving skills test~~
3 ~~specified in this section, provided:~~

4 ~~(1) The test is the same as that administered by the~~
5 ~~respective county examiners of drivers; and~~

6 ~~(2) The third party examiner has entered into an agreement~~
7 ~~with the State which complies with requirements of~~
8 ~~title 49 Code of Federal Regulations, section 383.75.~~

9 ~~(e)]~~ (b) The examiner of drivers may waive the driving
10 skills test specified in this section for a commercial driver's
11 license applicant who meets the requirements of title 49 Code of
12 Federal Regulations section 383.77 or 383.123(b).

13 ~~[(d)]~~ (c) A commercial driver's license or commercial
14 learner's permit, including a provisional or temporary license
15 or permit, shall not be issued to a person while the person is
16 subject to a disqualification from driving a commercial motor
17 vehicle, or while the person's driver's license is suspended,
18 revoked, or canceled in any state; or while the person holds a
19 driver's license issued by any other state unless the person
20 first surrenders that license.

21 ~~[(e)]~~ (d) A commercial learner's permit may be issued to
22 an individual who holds a valid driver's license, is at least

1 eighteen years of age, meets the qualification standards of
2 title 49 Code of Federal Regulations, part 391, subparts B and
3 E, and has passed the written tests required for the desired
4 class of a commercial driver's license.

5 ~~[(f)]~~ (e) The commercial learner's permit shall not be
6 valid for a period in excess of one hundred eighty days. When
7 driving a commercial motor vehicle, the holder of a commercial
8 learner's permit shall be accompanied by a person with a valid
9 commercial driver's license to operate that category of
10 commercial motor vehicle with the proper endorsements. The
11 licensed person shall occupy the seat beside the individual for
12 the purpose of giving instruction in driving the commercial
13 motor vehicle. The commercial learner's permit may be renewed
14 no more than an additional one hundred eighty days without
15 requiring the commercial learner's permit holder to retake the
16 general or endorsement knowledge tests, and the applicant
17 requalifies meeting the requirements of subsection ~~[(e)]~~ (d).
18 The commercial learner's permit holder is eligible to take the
19 commercial driver's license skills test no earlier than fourteen
20 days after obtaining the permit.

21 ~~[(g)]~~ (f) The examiner of drivers may waive the knowledge
22 and skills tests specified in this section for any person who is

1 at least twenty-one years of age and who possesses a valid
2 commercial driver's license issued by any state of the United
3 States, Mexico, or a province of Canada that issues licenses in
4 accordance with the minimum federal standards for the issuance
5 of commercial driver's licenses. The examiner of drivers shall
6 accept the test scores of a Hawaii commercial learner's permit
7 holder who completes training in another state in the United
8 States and is tested in compliance with federal motor carrier
9 safety regulations by that state in association with the
10 training. The testing state shall electronically transmit in a
11 secure manner the skills test results directly to the examiner
12 of drivers, and if the applicant passed, and meets all other
13 requirements, a Hawaii commercial driver's license shall be
14 issued. To retain a hazardous materials endorsement, the
15 applicant shall pass the knowledge test for a hazardous
16 materials endorsement and be determined by the federal
17 Transportation Security Administration not to pose a security
18 risk warranting denial of the endorsement.

19 ~~(h)~~ (g) Every applicant shall successfully complete the
20 commercial driver's license general knowledge test before being
21 issued a commercial learner's permit. A driver holding a valid
22 commercial driver's license who seeks an upgrade for which a

1 skills test is required shall also pass the appropriate
2 knowledge test prior to obtaining a commercial learner's
3 permit."

4 SECTION 2. Section 286-238, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) The application for a commercial driver's license or
7 commercial learner's permit shall include the following with
8 respect to the applicant:

- 9 ~~[-(1)- The full name and current mailing, residential, and~~
10 ~~business addresses;~~
- 11 ~~[-(2)- A physical description including sex and height;~~
- 12 ~~[-(3)- Date of birth;~~
- 13 ~~[-(4)- Social security number;~~
- 14 ~~[-(5)- Signature;~~
- 15 ~~[-(6)- Color photograph, digitized color image or black~~
16 ~~and white laser engraved photographs of the driver;~~
- 17 ~~[-(7)-]~~ (1) Certifications including those required by title
18 49 Code of Federal Regulations section 383.71(a),
19 except that this certification applies to both
20 intrastate and interstate drivers;
- 21 ~~[-(8)-]~~ (2) The names of all states where the applicant has

S.B. NO. 2898

1 previously been licensed to drive any type of motor
2 vehicle during the previous ten years; and
3 ~~[(9)]~~ (3) Any other information required by section
4 286-111.

5 The applicant shall produce proof of residency to show
6 the applicant's state of domicile as defined in title 49 Code of
7 Federal Regulations section 383.5."

8 SECTION 3. Section 286-239, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§286-239 Commercial driver's license.** ~~[(a)]~~ The
11 ~~commercial driver's license shall be marked "CDL" and, to the~~
12 ~~maximum extent practicable, shall be tamper proof and include,~~
13 ~~but not be limited to, the following with respect to the~~
14 ~~licensee:~~

- 15 ~~(1) The name and residence address;~~
- 16 ~~(2) A color photograph, digitized color image, or black~~
17 ~~and white laser engraved photographs of the driver;~~
- 18 ~~(3) A physical description including sex and height;~~
- 19 ~~(4) Date of birth;~~
- 20 ~~(5) A commercial driver's license number that shall not be~~
21 ~~the licensee's social security number;~~
- 22 ~~(6) Signature;~~

S.B. NO. 2898

1 ~~(7) The class or type of commercial motor vehicle or~~
2 ~~vehicles that may be driven together with any~~
3 ~~endorsements or restrictions;~~

4 ~~(8) The name of this State; and~~

5 ~~(9) The issuance and expiration dates of the license.~~

6 ~~(b)]~~ (a) Commercial driver's licenses may be issued with
7 the following categories:

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

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

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

19 (A) Designed to transport sixteen or more
20 passengers, including the driver; or

21 (B) Used in the transportation of hazardous materials
22 which requires the vehicle to comply with ~~Title~~

S.B. NO. 2898

1 title 49 Code of Federal Regulations, [~~Part~~] part
2 172, [~~Subpart~~] subpart F.

3 [~~(e)~~] (b) Commercial drivers' licenses may be issued with
4 any 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) "L" - 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;
- 15 (8) "V" - Indicates there is information about a medical
16 variance on the commercial driver's license
17 information system driver record;
- 18 (9) "K" - Restricts the driver from operating in
19 interstate commerce as defined in title 49 Code of
20 Federal Regulations section 390.5;
- 21 (10) "Z" - Restricts the driver to vehicles not equipped
22 with full air brakes;

1 (11) "E" - Restricts the driver to vehicles not equipped
2 with any manual transmission;

3 (12) "O" - Restricts the driver to non-tractor trailer
4 commercial motor vehicles;

5 (13) "M" - Restricts the driver from operating a class A
6 passenger vehicle; and

7 (14) "N" - Restricts the driver from operating a class A
8 and B passenger vehicle.

9 ~~(d)~~ (c) The holder of a valid commercial driver's
10 license may drive all vehicles in the category for which the
11 license is issued, and all lesser categories of vehicles except
12 motorcycles and except vehicles which require an endorsement,
13 unless the proper endorsement appears on the license.

14 ~~(e)~~ (d) Before issuing a commercial driver's license,
15 the examiner of drivers shall complete a check of the
16 applicant's driving record to determine whether the applicant is
17 subject to any disqualification under section 286-240, or any
18 license suspension, revocation, or cancellation under state law,
19 and whether the applicant has a driver's license from more than
20 one state or jurisdiction. The record check shall be made no
21 earlier than twenty-four hours prior to the initial issuance or
22 transfer and no sooner than ten days before renewals and

1 upgrades of a commercial driver's license. The record check
2 shall include but is not limited to the following:

- 3 (1) A check of the applicant's driving record as
4 maintained by the applicant's state of licensure;
- 5 (2) A check with the commercial ~~[+]~~driver's~~[+]~~ license
6 information system;
- 7 (3) A check with the National Driver Register; and
- 8 (4) A request for the applicant's complete driving record
9 from all states where the applicant was previously
10 licensed to drive any motor vehicle over the last ten
11 years. This check is only required for drivers
12 renewing a commercial driver's license for the first
13 time after September 30, 2002; provided that a
14 notation is made on the driver's record confirming the
15 check has been made and the date it was done.

16 ~~[(f)]~~ (e) Within ten days after issuing a commercial
17 driver's license, the examiner of drivers, in the following
18 situations, shall provide the operator of the commercial
19 driver's license information system with all information
20 obtained by the examiner that is necessary to identify the
21 licensee:

- 22 (1) The issuance of each commercial driver's license;

1 (2) The notation of any changes in driver identification
2 information; and

3 (3) The notation of any changes to the driver's driving
4 record relating to the transfer of a commercial
5 driver's license from one state to another.

6 ~~(g)~~ (f) Commercial driver's licenses shall expire as
7 follows:

8 (1) An initial or renewed commercial driver's license with
9 a hazardous materials endorsement shall expire no
10 later than five years from its date of issuance,
11 except if the licensee is seventy-two years of age or
12 older. The expiration date of a commercial driver's
13 license with a hazardous materials endorsement shall
14 be the same expiration date as the hazardous materials
15 endorsement. If the licensee is seventy-two years of
16 age or older, the initial or renewed commercial
17 driver's license with a hazardous materials
18 endorsement shall not exceed two years; and

19 (2) All other initial commercial driver's licenses shall
20 be valid for not more than an eight-year period,
21 expiring on the driver's birthday. All other renewed
22 licenses shall be valid for not more than an eight-

1 year period from the expiration date of the previous
2 valid license. With the exception of a commercial
3 driver's license with a hazardous materials
4 endorsement, the commercial driver's license shall
5 expire on the next birthday of the licensee occurring
6 not more than eight years after the date of issuance
7 of the license unless sooner revoked, suspended, or
8 canceled; provided that, unless sooner revoked,
9 suspended, or canceled, the license shall expire on
10 the second birthday of the licensee following the
11 issuance of the license if at that time the licensee
12 is seventy-two years of age or older.

13 [~~(h)~~] (g) When applying for renewal of a commercial
14 driver's license, the applicant shall complete the application
15 form required by [~~section 286-238,~~] rules adopted pursuant to
16 section 286-246 providing updated information and required
17 certifications. If the applicant desires to retain a hazardous
18 materials endorsement, the knowledge test for a hazardous
19 materials endorsement shall also be taken and passed by the
20 applicant. The examiner of drivers shall complete a check of
21 the applicant's driving record as required under subsection
22 [~~(e)~~] (d)."

1 SECTION 4. Section 286-239.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§~~[+]~~286-239.5~~[+]~~ **Reactivation of expired commercial**
4 **driver's license; fees; road test waived.** (a) Unless revoked
5 or suspended, and except as provided in subsection (b), any
6 commercial driver's license that has expired under section 286-
7 239 or rules adopted pursuant to section 286-246 may be
8 reactivated by the licensee in accordance with the requirements
9 and procedures set forth for the renewal of commercial drivers'
10 licenses under section ~~[286-239(h)-]~~ 286-239(g). No person
11 seeking reactivation of an expired commercial driver's license
12 under this subsection shall be required to undergo reexamination
13 of the person's driving skills under section 286-236. The
14 examiner of drivers shall require the holder of an expired
15 commercial driver's license to pay a reactivation fee of \$5 for
16 each thirty-day period, or fraction thereof, that has elapsed
17 after a ninety-day grace period.

18 (b) Any commercial driver's license not reactivated under
19 subsection (a) within one year of the indicated date of
20 expiration shall be invalid. The examiner of drivers shall
21 examine an applicant whose commercial driver's license has been
22 declared invalid under this subsection in accordance with the

S.B. NO. 2898

1 licensing procedures established under sections 286-236 [~~286-~~
2 ~~238,~~] and 286-239 [~~-~~], and rules adopted pursuant to section 286-
3 246."

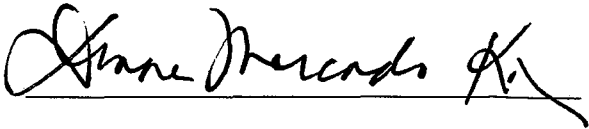
4 SECTION 5. Section 286-238.5, Hawaii Revised Statutes, is
5 repealed.

6 " [~~§286-238.5] Hazardous materials endorsement. The~~
7 ~~examiner of drivers shall not issue, renew, upgrade, or transfer~~
8 ~~a hazardous materials endorsement for a commercial driver's~~
9 ~~license to any individual unless the federal Transportation~~
10 ~~Security Administration has determined that the individual does~~
11 ~~not pose a security risk warranting denial of the endorsement."]~~

12 SECTION 6. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun, before its effective date.

15 SECTION 7. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 8. This Act shall take effect upon its approval.

18
19 INTRODUCED BY: 

20 BY REQUEST

21
22

S.B. NO. 2898

Report Title:

Highway; Safety; Motor Vehicle; Commercial Driver's Licensing

Description:

Amends or deletes statutes containing federal commercial driver's licensing requirements that are addressed in Hawaii Administrative Rules.

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

SB. NO. 2898

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO COMMERCIAL DRIVER'S LICENSING.

PURPOSE: To amend or delete statutes containing federal requirements that are addressed in Hawaii Administrative Rules.

MEANS: Amend sections 286-236, 286-238, 286-239 and 286-239.5 and repeal section 286-238.5, Hawaii Revised Statutes.

JUSTIFICATION: Serious financial penalties can be incurred when a State does not comply with certain federal motor carrier safety regulations. Adopting these regulations by reference in administrative rules is expedient and ensures exact compliance. When placing these regulations in the Hawaii Revised Statutes, there is a possibility for noncompliance to result when various legislative drafts are developed.

The statutes that are amended or repealed are currently addressed in chapters 19-122 and 19-141, Hawaii Administrative Rules.

Impact on the public: None.

Impact on the department and other agencies: None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: TRN 595

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.