

**CHAPTER 286**  
**HIGHWAY SAFETY**

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## **Note**

For electric vehicle registration, parking, HOV lane use, and rules (repealed June 30, 2020) as provided by L 2012, c 168, §2, see note following §291-71.

Traffic safety and major accident reporting protocols by each county police department. L 2010, c 104.

Working group on documentation for state civil identification card; reports to 2016-2017 legislature (dissolved June 30, 2017). L 2015, c 243.

## **Revision Note**

The amendments made to part VI by L 2012, c 310, §§2 (enacting subpart B to part VI), 5 (amending the part VI title), 6 (adding a subpart A title to part VI), and 8 (amending §§286-101, 286-102(e), 286-104, 286-106, 286-107(c), 286-108(a), 286-110(a), 286-112(a) and (c), 286-113, 286-114, and 286-122(a) to change "part" to "subpart") are omitted as the new subpart B added to part VI was renumbered as part XVI pursuant to §23G-15.

## **Cross References**

Complete streets, see §264-20.5.

Nonresident violator compact, see chapter 291A.

## **Law Journals and Reviews**

Intextication: Txtng Whl Drvng. Does the Punishment Fit the Crime? 32 UH L. Rev. 359 (2010).

## **"PART I. GENERAL PROVISIONS**

**§286-1 Short title.** This chapter may be cited as the "Hawaii Highway Safety Act". [L 1967, c 214, pt of §2; HRS §286-1]

" **§286-2 Definitions.** The following terms whenever used and referred to in this chapter shall have the following meanings unless a different meaning is clearly apparent from the context:

"Aftermarket motorcycle frame" means a frame that is manufactured to replace the frame of a motorcycle that was certified by its manufacturer to be in compliance with all applicable Federal Motor Vehicle Safety Standards as of the date of manufacture, or the frame of a homemade motorcycle that was manufactured not for profit by a person who built the motorcycle as a hobby.



"Alcohol" means the product of distillation of any fermented liquid, whether rectified or not, whatever may be the origin thereof, and includes ethyl alcohol as well as synthetic ethyl alcohol, but not denatured or other alcohol which is considered not potable under the customs laws of the United States.

"Alcohol concentration" means the concentration of alcohol in a person's blood or breath. When expressed as a percentage, it means: (1) the number of grams of alcohol per 100 milliliters of blood; or (2) the number of grams of alcohol per 210 liters of breath.

"Bicycle" means every device propelled solely by human power upon which any person may ride, having two tandem wheels sixteen inches in diameter or greater, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels.

"Bus" means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons.

"Chief of police" means the chief of police of each county.

"Commercial driver's license" (CDL) means a license issued in accordance with the requirements of this chapter to an individual which authorizes the individual to drive a class of commercial motor vehicle.

"Commercial driver's license information system" (CDLIS) means the information system established pursuant to the Federal Commercial Motor Vehicle Safety Act of 1986 (Title XII, Public Law 99-570) to serve as a clearinghouse and depository of information pertaining to the licensing and identification of commercial motor vehicle drivers and the disqualification of such drivers from driving commercial motor vehicles.

"Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property:

- (1) If the vehicle has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit(s) with a gross vehicle weight rating of more than 10,000 pounds;
- (2) If the vehicle has a gross vehicle weight rating of 26,001 or more pounds;
- (3) If the vehicle is designed to transport sixteen or more occupants, including the driver; or
- (4) If the vehicle, regardless of size, is used in the transportation of hazardous materials, as defined in this section.

"Controlled substance" means any substance so classified under section 102(6) of the Controlled Substance Act (21 United States Code §802(6)), and includes all substances listed on

schedules I through V of 21 Code of Federal Regulations, Part 1308, as they may be revised from time to time.

"Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an administrative proceeding, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

"Director" means the state director of transportation.

"Director of finance" means the director of finance of each county.

"Drive" means to drive, operate, or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic.

"Driver" means every person who drives, operates, or is in actual physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic or who is exercising control over or steering a vehicle being towed or pushed by a motor vehicle.

"Driver's license" means any license to operate a motor vehicle issued under the laws of this State.

"Driving instructor" means every person who, for compensation, instructs another person in the rudiments and mechanics of the operation of a motor vehicle.

"Employee" means any driver of a commercial motor vehicle, including full time, regularly employed drivers; casual, intermittent, or occasional drivers; and leased drivers and independent, owner-operator contractors (while in the course of operating a commercial motor vehicle) who are either directly employed by or under lease to an employer.

"Examiner of drivers" means the person or persons appointed under section 286-101.

"Executive officer" means the mayor of each county.

"Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

"Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year.

"Foreign jurisdiction" means any jurisdiction other than a state of the United States.

"Gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by

the manufacturer, gross combination weight rating shall be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and any load thereon.

"Gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle.

"Hazardous materials" means any material that has been designated as hazardous under Title 49 United States Code section 5103 and is required to be placarded under Subpart F of Part 172, Title 49, Code of Federal Regulations, or any quantity of a material listed as a select agent or toxin in Title 42 Code of Federal Regulations Part 73.

"Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

"Identification card" means a document made or issued under part [XVI] that, when completed with information concerning a particular individual, is intended solely for the purposes of civil identification.

"Intoxicating liquor" includes alcohol, brandy, whiskey, rum, gin, okolehao, sake, beer, ale, porter, and wine; and also includes, in addition to the foregoing, any spirituous, vinous, malt or fermented liquor, liquids, and compounds, whether medicated, proprietary, patented, or not, in whatever form and of whatever constituency and by whatever name called, containing one-half of one per cent or more of alcohol by volume, which are fit for use or may be used or readily converted for use for beverage purposes.

"Intrastate commerce" means trade, traffic, or transportation between two places in the State that originates and terminates within the State.

"Intrastate driver" means a driver, not less than nineteen years of age, engaged in intrastate commerce, except in the transportation of passengers in a school vehicle, as defined in section 286-181, or in the transportation of hazardous materials, as defined in section 286-2.

"Legal owner" includes a person who holds unencumbered title to a vehicle or is a secured party under a security interest in a vehicle.

"Moped" means a device upon which a person may ride which has two or three wheels in contact with the ground, a motor having a maximum power output capability measured at the motor output shaft, in accordance with the Society of Automotive Engineers standards, of two horsepower (one thousand four hundred ninety-two watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and which will propel the

moped, unassisted, on a level surface at a maximum speed no greater than thirty miles per hour; and a direct or automatic power drive system which requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit.

"Motorcycle" means every motor vehicle having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground, but excludes a farm tractor and a moped.

"Motor scooter" means every motorcycle with a motor which produces not more than five horsepower, but excludes a moped.

"Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power but which is not operated upon rails, but excludes a moped.

"Neighborhood electric vehicle" means a self-propelled electrically powered motor vehicle to which all of the following apply:

- (1) The vehicle is emission free;
- (2) The vehicle is designed to be and is operated at speeds of twenty-five miles per hour or less;
- (3) The vehicle has four wheels in contact with the ground;
- (4) The vehicle has a gross vehicle weight rating of less than three thousand pounds; and
- (5) The vehicle conforms to the minimum safety equipment requirements as adopted in the Federal Motor Vehicle Safety Standard No. 500, Low Speed Vehicles (49 C.F.R. 571.500).

"Owner" or "registered owner" includes a legal owner of a vehicle where there is no security interest held by anyone on the vehicle, a buyer under a purchase money security interest, or a debtor under any security interest.

"Passenger car" means every motor vehicle, except motorcycles and motor scooters, designed for carrying ten passengers or less and used for the transportation of persons.

"Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

"Rebuilt vehicle" means any vehicle which has been declared a total loss by an insurer and has been rebuilt or repaired to operate on public highways. For the purpose of this definition, a vehicle is a total loss only if there is material damage to the vehicle's frame, unitized structure, or suspension system,

and the projected cost of repairing the damage exceeds the market value of the vehicle at the time of the incident causing it to be declared a total loss.

"Reconstructed vehicle" means a vehicle that is registered to be operated on a public highway, and that is:

- (1) Assembled from new or used parts by a person other than a recognized manufacturer of new vehicles;
- (2) Modified to the extent that the identity of the vehicle's make, model, or type is obscured by material changes in its appearance; or
- (3) Modified by the removal, addition, alteration, or substitution of other than original replacement essential parts, including the vehicle's body, power train, steering system, suspension system, exhaust system, intake system, or bumper system;

excluding ordinary body repair that does not change the exterior structure of the vehicle. The term does not include a special interest vehicle or a motorcycle.

"Rental or U-drive motor vehicle" means a motor vehicle which is rented or leased or offered for rent or lease for a period of six months or less.

"Semitrailer" means a trailer so constructed that a substantial part of its weight rests upon the truck-tractor by which it is drawn.

"Special interest vehicle" means a vehicle of any age that, because of its significance, is being collected, preserved, restored, or maintained by a collector. The term includes a street rod vehicle and a street rod replica vehicle, as those terms are defined in section 286-26.5; a vehicle manufactured before 1968; and a vehicle manufactured after 1967 to resemble a vehicle manufactured before 1968.

"State", except where reference is clearly to another state, territory, or possession of the United States, means the State of Hawaii.

"Third party examiner" means a driver's license examiner who is qualified and has been certified by the State to examine applicants for category (4) licenses under section 286-102(b) and commercial driver licenses.

"Title state or county" means any state or any county in any state which issues certificates of title and registration and notes, liens, and other encumbrances thereon.

"Tractor-semitrailer combination" means a truck-tractor in use together with a semitrailer.

"Trailer" means a vehicle designed for carrying persons or property and for being drawn by a motor vehicle.

"Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

"Truck-tractor" means a truck designed and used primarily for drawing other vehicles and not so constructed as to carry a load to other than a part of the weight of the vehicle and load so drawn.

"Truck-trailer combination" means a truck in use together with a trailer.

"United States" means the fifty states and the District of Columbia.

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, but excludes devices moved by human power or devices used exclusively upon stationary rails or tracks and mopeds.

"Vehicle identification number" means the unique series of letters and numerals assigned to a vehicle either by the vehicle manufacturer or incomplete vehicle manufacturer as required by federal law, or by the county director of finance to identify a reconstructed vehicle, special interest vehicle, or motorcycle. [L 1967, c 214, pt of §2; HRS §286-2; am L 1968, c 48, §2(a); am L 1970, c 164, §2; am L 1973, c 152, §1(a); am L 1974, c 98, §1; am L 1975, c 187, §3; am L 1977, c 77, §1; am L 1978, c 175, §§7, 8; am L 1984, c 276, §3; am L 1985, c 23, §1; am L 1989, c 320, §3; am L 1990, c 43, §2 and c 342, §17; am L 1993, c 270, §1; am L 1997, c 246, §3; am L 1999, c 262, §2(1); am L 2002, c 255, §2; am L 2004, c 126, §1; am L 2006, c 22, §1 and c 130, §2; am L 2007, c 288, §2; am L 2011, c 64, §1; am L 2012, c 310, §3; am L 2013, c 114, §18; am L 2014, c 23, §1]

#### **Revision Note**

Definition of "director of finance" inserted, definition of "treasurer" deleted, and words "county chairman" deleted from definition of "executive officer" to conform to county charters.

#### **Case Notes**

Definition of "owner" not applicable to term as used in private insurance policies. 230 F. Supp. 451.

" **§286-3 Powers and duties of the governor.** The governor, in addition to other duties and responsibilities conferred upon the governor by the Constitution and laws of the State, may contract and do all other things necessary in behalf of the State to promote traffic safety. To that end the governor shall coordinate the activities of the State and its counties.

The governor may delegate duties and functions conferred upon the governor by this chapter to the director of transportation appointed under the authority of section 26-31

who shall also be designated as the governor's highway safety representative. [L 1967, c 214, pt of §2; HRS §286-3; am L Sp 1977 1st, c 20, §9; gen ch 1985]

" **§286-4 REPEALED.** L Sp 1977 1st, c 20, §10.

" **§286-4.1 Medical advisory board.** (a) There is established within the office of the state director of transportation for administrative purposes a medical advisory board consisting of not fewer than five physicians licensed to practice in the State. The members of the board shall be appointed by the governor as provided in section 26-34, except as otherwise provided by this section. The board shall consist of physicians with an interest in one or more of the following:

- (1) Psychiatry;
- (2) Neurology;
- (3) Orthopedics;
- (4) Ophthalmology or optometry;
- (5) Endocrinology;
- (6) Geriatrics; or
- (7) Addiction medicine.

The members of the board shall serve without compensation but shall be reimbursed for expenses, including travel expense, actually incurred in the performance of their duties under this chapter.

- (b) The duties of the board shall include:
  - (1) The development of a system for medically evaluating persons who an examiner of drivers has reason to believe have mental or physical conditions that might impair their driving ability; and
  - (2) The furnishing of advice to the examiners of drivers respecting medical criteria and vision standards for motor vehicle drivers. [L 1969, c 128, §1(4); am L 1970, c 164, §3; am L Sp 1977 1st, c 20, §12; am L 1991, c 128, §1; am L 2016, c 120, §1]

" **§286-5 State highway safety council.** There is established the Hawaii highway safety council. The director of transportation shall serve as its chairperson. The following or their designated representatives shall be members of the council: the chief justice, the attorney general, the director of health, the superintendent of education, the president of the University of Hawaii, the chairperson of each of the county highway safety councils established under section 286-6, and not more than twenty other persons who shall be appointed by the governor on the basis of their interest in highway safety.

The state highway safety council shall advise the governor on matters relating to the programs and activities of the State in the field of highway safety.

The members of the council shall serve without pay but shall be entitled to reimbursement for necessary expenses while attending meetings and while in discharge of their duties. [L 1967, c 214, pt of §2; HRS §286-5; am L Sp 1977 1st, c 20, §12; am L 1982, c 147, §13; gen ch 1993]

" **§286-6 County traffic or highway safety councils.** There is established in each county a county traffic or highway safety council. The respective county councils may make appropriations to meet the necessary expenses of their respective traffic or highway safety councils.

The following or their designated representatives shall be members of a county traffic or highway safety council: the mayor; the chief of police; the prosecuting attorney, corporation counsel, or county attorney; the traffic engineer, chairperson of the traffic commission or safety program coordinator; and not more than fifteen other persons residing in the county who shall be appointed by the mayor on the basis of their interest in highway safety and their knowledge of local conditions.

The county traffic or highway safety council shall advise the mayor on matters relating to highway safety. [L 1967, c 214, pt of §2; HRS §286-6; gen ch 1993]

#### **Revision Note**

"Boards of supervisors", "county chairman", and "public prosecutor" deleted to conform to county charters.

" **§286-7 County highway safety programs.** Whenever it is determined by the governor to be in the public interest, the governor may delegate highway safety programs or portions thereof to the counties; provided that the program of each county is approved by the governor. Delegations under this section shall be made by gubernatorial proclamation. [L 1967, c 214, pt of §2; HRS §286-7; gen ch 1985]

" **§286-8 Rules and regulations.** In order to decrease the deaths, injuries, damage, and losses resulting from highway traffic accidents, the state director of transportation shall, subject to the requirements of chapter 91, adopt rules and regulations dealing with: identification and surveillance of accident locations; highway design, construction, and



maintenance; traffic control devices; pedestrian safety; police traffic services; and debris hazard control and clean up.

Any person conducting construction, maintenance, surveying, or other work on or adjacent to any public street or highway or any street where traffic regulations are imposed by state or county authority who violates the rules and regulations governing the use of traffic control devices at such work sites shall, in addition to any other penalty imposed by law, be fined not more than \$1,000 or imprisoned not more than one year, or both. [L 1967, c 214, pt of §2; HRS §286-8; am L 1968, c 48, §2(b); am L 1969, c 128, §1(2); am L Sp 1977 1st, c 20, §12]

" **[§286-9 Facilities for physically handicapped persons.]**

The state director of transportation, under the director's authority dealing with highway design, construction, and maintenance and the director's authority dealing with pedestrian safety, shall provide that appropriate facilities be constructed at certain street locations for the use of physically handicapped persons. [L 1969, c 260, §2; am L Sp 1977 1st, c 20, §12; gen ch 1985]

" **[§286-10] Arrest or citation.** Except when required by state law to take immediately before a district judge a person arrested for violation of any provision of this chapter, including any rule adopted pursuant to this chapter, any person authorized to enforce the provisions of this chapter, hereinafter referred to as enforcement officer, upon arresting a person for violation of any provision of this chapter, including any rule adopted pursuant to this chapter shall issue to the alleged violator a summons or citation printed in the form hereinafter described, warning the alleged violator to appear and answer to the charge against the alleged violator at a certain place and at a time within seven days after such arrest.

The summons or citation shall be printed in a form comparable to the form of other summonses and citations used for arresting offenders and shall be designed to provide for inclusion of all necessary information. The form and content of such summons or citation shall be adopted or prescribed by the district courts.

The original of a summons or citation shall be given to the alleged violator and the other copy or copies distributed in the manner prescribed by the district courts; provided that the district courts may prescribe alternative methods of distribution of the original and any other copy.

Summonses and citations shall be consecutively numbered and the carbon copy or copies of each shall bear the same number.

Any person who fails to appear at the place and within the time specified in the summons or citation issued to the person by the enforcement officer upon the person's arrest for violation of any provision of this chapter, including any rule adopted pursuant to this chapter, shall be guilty of a misdemeanor.

If any person fails to comply with a summons or citation issued to such person, or if any person fails or refuses to deposit bail as required, the enforcement officer shall cause a complaint to be entered against such person and secure the issuance of a warrant for the person's arrest.

When a complaint is made to any prosecuting officer of the violation of any provision of this chapter, including any rule adopted hereunder, the enforcement officer who issued the summons or citation shall subscribe to it under oath administered by another official of the department of transportation whose name has been submitted to the prosecuting officer and who has been designated by the director to administer the same. [L 1979, c 119, §4; gen ch 1985]

#### **Cross References**

Nonresident violator compact, see chapter 291A.

#### **Case Notes**

"Arrest" may involve either (1) taking the alleged violator into extended physical custody or (2) issuing the individual a citation. 84 H. 295, 933 P.2d 632.

Police officers have authority to order alleged violators out of their vehicles in the case of traffic-related criminal offenses, but not in the case of traffic violations or when statutorily required to issue a citation. 84 H. 295, 933 P.2d 632.

" **§286-11 REPEALED.** L 2015, c 131, §5.

" **[\$286-12] All-terrain vehicle; utility-terrain vehicle; permitted use.** (a) All-terrain vehicles and utility-terrain vehicles may be operated on a street, as defined in section 291C-1; provided that the all-terrain vehicle or utility-terrain vehicle is:

- (1) Used as farm equipment, or used by a city, county, or state worker while acting within the scope of that person's official duties;

- (2) Operated by a person who holds a current category (3) driver's license under section 286-102 or a commercial driver's license under part XIII;
- (3) Driven on streets that are no more than two lanes, with posted speed limits of no more than thirty-five miles per hour;
- (4) Used to travel between properties zoned for agriculture, or used by a city, county, or state worker while acting within the scope of that person's official duties to travel between properties under the jurisdiction of the city, county, or State;
- (5) Used in counties with populations of less than five hundred thousand residents; and
- (6) Driven on streets during daylight hours; provided further that while in operation, any operator and passenger of an all-terrain vehicle or utility-terrain vehicle shall wear a safety helmet with a securely fastened chin strap that meets the specifications and requirements established by rules adopted by the director.

(b) For purposes of this section:

"All-terrain vehicle" means a motor vehicle that:

- (1) Is designed for off-highway operation by a single operator carrying no more than one passenger, if so designed as provided in paragraph (5) of this definition;
- (2) Is fifty inches or less in width;
- (3) Has an unladen weight of nine hundred pounds or less;
- (4) Is suspended on three or more tires;
- (5) Has a single seat designed to be straddled by the operator, or a single seat designed to be straddled by the operator and a seat for not more than one passenger sitting behind the operator; and
- (6) Has handlebars for steering control.

"Farm equipment" refers to any kind of machinery used on a farm to help with farming, including but not limited to a tractor, cultivator, plow, all-terrain vehicle, or utility-terrain vehicle.

"Utility-terrain vehicle" means a motor vehicle that:

- (1) Is designed to be operated off highway;
- (2) Is sixty inches or less in width;
- (3) Has an unladen weight of one thousand three hundred pounds or less;
- (4) Is suspended on four to six tires;
- (5) Has a steering wheel for steering control;
- (6) Is equipped with roll-over protection;

(7) Accommodates one driver and one passenger sitting side-by-side; and

(8) Is equipped with seat belts for driver and passenger protection.

(c) Any person who violates this section shall be fined \$250 for each violation.

(d) All-terrain vehicles and utility-terrain vehicles used as farm equipment shall be regulated as farm equipment and not as motor vehicles.

(e) All-terrain vehicles and utility-terrain vehicles used by a city, county, or state worker while acting within the scope of that person's official duties shall not be regulated as motor vehicles. [L 2014, c 71, §1]

## "[PART IA.] MOTOR VEHICLE REGULATION

**[\$286-16] Powers and duties.** The director of transportation shall prescribe uniform standards and procedures for motor vehicle inspection, driver licensing, and registration, including the form and content of records to be maintained for the registration of vehicles and for the licensing of drivers. [L Sp 1977 1st, c 20, pt of §8]

" **[\$286-17] Enforcement.** The director of transportation shall have such powers and duties of enforcement of statutes and of rules adopted by the director as are necessary to implement this part. The director may delegate the enforcement of this part to the county executive officers. [L Sp 1977 1st, c 20, pt of §8; gen ch 1985]

" **[\$286-18] Rules.** The director of transportation shall adopt rules pursuant to chapter 91 necessary for the purposes of this part. [L Sp 1977 1st, c 20, pt of §8]

## "PART II. [INSPECTION OF VEHICLES AND MOPEDS]

**§286-21 Vehicles and mopeds without required equipment or in unsafe condition.** [*Section effective January 1, 2017. For section effective until December 31, 2016, see main volume.*] No person shall drive or cause to move on any highway any motor vehicle, moped, trailer, semitrailer, or pole trailer, or any combination thereof, unless the equipment thereon is in good working order and adjustment as required in this part and does not endanger the driver or other occupant or any person upon the highway. [L 1967, c 214, pt of §2; HRS §286-21; am L 2016, c 200, §7]

" **§286-22 Inspection by officers of the police department.**  
[Section effective January 1, 2017. For section effective until  
December 31, 2016, see main volume.] (a) The chief of police  
or any police officer of any county may, at any time when the  
chief of police or police officer has reasonable cause to  
believe that a vehicle or moped is unsafe or not equipped as  
required by law, require the owner or driver of the vehicle or  
moped to submit the vehicle or moped to an inspection or make  
the necessary corrections or repairs.

(b) If the vehicle or moped is found to be in an unsafe  
condition or if any required part or equipment is not present or  
if any required part or equipment is present but not in proper  
repair, the officer shall issue a citation to the owner or  
driver stating the reasons that the vehicle or moped is deemed  
unsafe or is not equipped as required and shall require that a  
new certificate of inspection as provided in section 286-26 be  
obtained within five days or that the defect be cured.

(c) If upon inspection, the chief of police or any police  
officer determines that any vehicle or moped is in such unsafe  
condition as to constitute a menace to the public or is not  
equipped as required and cannot reasonably be restored to a safe  
condition as required in this part, the chief of police or  
police officer shall remove the sticker which signifies the  
certificate of inspection and inform the director of finance who  
shall immediately suspend the registration of the vehicle or  
moped and give notice of the suspension to its owner. Whenever  
the director of finance has suspended the registration of any  
vehicle or moped under this part, the owner of the vehicle or  
moped shall immediately surrender and forward to the director of  
finance the certificate of registration and the license plates  
last issued upon registration of the vehicle for the current  
year.

(d) Any person aggrieved by this section shall have the  
right to a hearing before a district judge of the circuit in  
which the person is cited within five days. The judge shall  
determine whether the chief of police or any police officer  
reasonably performed the chief of police's or police officer's  
duties hereunder and shall make any appropriate order. [L 1967,  
c 214, pt of §2; HRS §286-22; am L 1970, c 188, §§39, 40; gen ch  
1985; am L 2016, c 200, §8]

#### **Revision Note**

"Director of finance" substituted for "treasurer" to conform  
to county charters.

" **§286-23 Responsibility for compliance.** (a) Every owner or driver, upon receiving a citation as provided in section 286-22(b), shall comply therewith and shall within five days secure an official certificate of inspection or make the necessary corrections or repairs, or the driver may request a hearing as provided in section 286-22(d).

(b) *[Subsection effective January 1, 2017. For subsection effective until December 31, 2016, see main volume.]* No person shall operate any vehicle or moped after receiving a citation with reference thereto as provided in section 286-22(b), except that if the driver is authorized to do so by the police officer, the driver may return the vehicle or moped to the driver's residence or place of business or the residence or place of business of the owner of the vehicle or moped, or to an automotive repair shop, if within a distance of twenty miles, until a certificate of inspection is obtained or the necessary corrections or repairs are made. [L 1967, c 214, pt of §2; HRS §286-23; gen ch 1985; am L 2016, c 200, §9]

" **§286-24 Registered owner's responsibility; registration plates as prima facie evidence as to the fault of the registered owner.** In any proceeding for violation of this part, the registered owner of a vehicle shall be deemed responsible for the unsafe condition of the vehicle. [L 1967, c 214, pt of §2; HRS §286-24]

" **§286-25 Operation of a vehicle or moped without a certificate of inspection.** *[Section effective January 1, 2017. For section effective until December 31, 2016, see main volume.]* Whoever operates, permits the operation of, causes to be operated, or parks any vehicle or moped on a public highway without a current official certificate of inspection, issued under section 286-26, shall be fined not more than \$100. [L 1967, c 214, pt of §2; HRS §286-25; am L 1972, c 18, §1; am L 1974, c 106, §1; am L 1993, c 214, §3; am L 2016, c 200, §10]

#### Case Notes

Statute applied to defendant, where defendant argued that traffic statutes involved only applied to businesses and state vehicles; statute did not violate defendant's freedom of movement. 77 H. 222 (App.), 883 P.2d 644.

It is within the power of the legislature to motivate compliance with safety inspection and liability insurance laws by imposing the penalty specified in this section; because the offense of "expired safety sticker" is a civil traffic infraction and not a criminal offense, the district court

improperly found motorist "guilty". 107 H. 508 (App.), 115 P.3d 687.

" **§286-26 Certificates of inspection.** [*Section effective January 1, 2017. For section effective until December 31, 2016, see main volume.*] (a) The following vehicles shall be certified as provided in subsection (e) once every year:

- (1) Trucks, truck-tractors, semitrailers, and pole trailers having a gross vehicle weight rating of more than 10,000 pounds;
- (2) Buses;
- (3) Rental or U-drive motor vehicles two years of age or older;
- (4) Taxicabs; and
- (5) Mopeds.

Ambulances shall be certified as provided in subsection (e) once every six months.

(b) All other vehicles, including motorcycles, mopeds, trailers, semitrailers, and pole trailers having a gross vehicle weight rating of 10,000 pounds or less, and antique motor vehicles as defined in section 249-1, except those in subsections (c) and (d), shall be certified as provided in subsection (e) every twelve months; provided that any vehicle to which this subsection applies, except a moped, shall not require inspection within two years of the date on which the vehicle was first sold.

(c) Any vehicle or moped that has been involved in an accident shall be certified as provided in subsection (e) before it is operated again if:

- (1) It is determined by a police officer or an insurer that the vehicle's or moped's equipment has been damaged so as to render the vehicle or moped unsafe; or
- (2) It is rebuilt or restored.

(d) Every vehicle or moped shall be certified prior to the issuance of a temporary or permanent registration by the director of finance and prior to the transfer of any registration; provided that this requirement shall not apply to a subsequent transfer of registration in a vehicle or moped that carries a current certificate of inspection.

(e) Upon application for a certificate of inspection to be issued for a vehicle or moped, an inspection as prescribed by the director under subsection (g) shall be conducted on the vehicle or moped, and if the vehicle or moped is found to be in a safe operating condition, a certificate of inspection shall be issued upon payment of a fee to be determined by the director. The certificate shall state the effective date, the termination

date, the name of the issuing insurance carrier, and the policy number of the motor vehicle insurance identification card for the inspected motor vehicle as specified by section 431:10C-107 or state the information contained in the proof of insurance card as specified by section 431:10G-106. A sticker, authorized by the director, shall be affixed to the vehicle or moped at the time a certificate of inspection is issued. An inspection sticker which has been lost, stolen, or destroyed shall be replaced without reinspection by the inspection station that issued the original inspection sticker upon presentation of the current certificate of inspection; provided that the current certificate of inspection and inspection sticker shall not have expired at the time the replacement is requested. The director shall adopt rules to determine the fee for replacement of lost, stolen, or destroyed inspection stickers.

(f) The operator of an official inspection station shall pay, from the fee in subsection (e), an amount to be determined by rules adopted pursuant to chapter 91 to the director of transportation. This amount shall be expended only for administration and enforcement of the periodic motor vehicle inspection program. The funds collected pursuant to this subsection shall be deposited into the highway special fund.

(g) The director of transportation shall adopt necessary rules for the administration of inspections and the issuance of certificates of inspection.

(h) This section shall not apply to:

- (1) Any motor vehicle which is covered by part XI, governing safety of motor carrier vehicle operation and equipment; provided that the rules adopted pursuant to part IA impose standards of inspection at least as strict as those imposed under subsection (g) and that certification is required at least as often as provided in subsections (a), (b), (c), and (d); and
- (2) Aircraft servicing vehicles that are being used exclusively on lands set aside to the department of transportation for airport purposes.

(i) As part of the inspection required by this section, the owner of the vehicle to be inspected, except for mopeds, shall produce and display the motor vehicle insurance identification card for the inspected motor vehicle required by section 431:10C-107 or the proof of insurance card required by section 431:10G-106. If no card is displayed, then the sticker authorized by the director shall not be affixed to the vehicle and the certificate of inspection shall not be issued. [L 1967, c 214, pt of §2; HRS §286-26; am L 1969, c 128, §1(3); am L 1970, c 73, §1(c); am L 1974, c 98, §2; am L Sp 1977 1st, c 20, §11; am L 1978, c 91, §9; am L 1982, c 13, §§1, 2; am L 1984, c



276, §4; am L 1986, c 33, §1 and c 239, §1; am L 1987, c 222, §1; am L 1988, c 253, §1; am L 1989, c 326, §1; am L 1990, c 34, §14; am L 1992, c 170, §1 and c 242, §1; am L 1997, c 251, §§5, 6; am L 2002, c 138, §1; am L 2016, c 200, §11]

" **§286-26.5 Special interest vehicles.** (a) As used in this section:

"Collector" means an owner of one or more vehicles, including parts vehicles, who collects, purchases, acquires, trades, or disposes of a vehicle or its parts, for the owner's own use, to preserve, restore, and maintain the vehicle or another vehicle for hobby or historical purposes.

"Parts vehicle" means a vehicle that is owned by a collector to furnish parts for the restoration or maintenance of a special interest vehicle.

"Street rod replica vehicle" means a vehicle that was assembled from a manufactured kit, either as:

- (1) A complete kit to construct a new vehicle consisting of a prefabricated body and chassis;
- (2) Components manufactured before 1968; or
- (3) Components manufactured after 1967 to resemble a vehicle manufactured before 1968;

and that has been modified in its body style or design through the use of nonoriginal or reproduction components, such as the frame, engine, drive train, suspension, or brakes, in a manner that does not adversely affect its safe performance as a motor vehicle or render the vehicle unlawful for use on public highways.

"Street rod vehicle" means a vehicle that was:

- (1) Manufactured before 1968; or
- (2) Manufactured after 1967 to resemble a vehicle manufactured before 1968;

and that has been modified in its body style or design through the use of nonoriginal or reproduction components, such as the frame, engine, drive train, suspension, or brakes, in a manner that does not adversely affect its safe performance as a motor vehicle or render the vehicle unlawful for use on public highways. The term does not include a motorcycle, an antique vehicle, or a restored vehicle.

(b) If a street rod vehicle was manufactured before 1968 and has been modified in body style or design, the make and year of the vehicle shall be the year the vehicle most nearly resembles. If a street rod vehicle was manufactured after 1967 to resemble a vehicle manufactured before 1968, the body type of the vehicle shall be street rod vehicle or "STRD".

(c) A state vehicle identification number shall be issued to a street rod vehicle that was manufactured after 1967 to

resemble a vehicle manufactured before 1968, when no vehicle identification number is present on the vehicle; when more than one vehicle identification number is present on the vehicle; or when the vehicle identification number is absent from the body or frame, or both, of the vehicle. The state vehicle identification number shall be assigned by the director of finance of the county in which the vehicle resides; provided that not more than one hundred vehicle identification numbers shall be issued annually.

To obtain a state vehicle identification number under this subsection, the owner of a street rod vehicle that was manufactured after 1967 to resemble a vehicle manufactured before 1968 shall provide:

- (1) A title of ownership from the previous owner of the vehicle's body or frame;
- (2) A bill of sale or invoices for all major parts used in the modification of the vehicle; and
- (3) A weight certificate issued by a state-certified scale for the actual weight of the vehicle.
- (d) Notwithstanding any other law to the contrary:
- (1) Street rod vehicles and street rod replica vehicles shall be equipped with the following equipment:
  - (A) Hydraulic service brakes on all wheels;
  - (B) Sealed beam or halogen headlights;
  - (C) Turn signals and a turn signaling switch;
  - (D) Safety glass or lexan windshield;
  - (E) Electric or vacuum windshield wiper located in front of the driver;
  - (F) Standard or DOT/SAE-approved tail lights;
  - (G) A parking brake that operates on at least two wheels on the same axle; and
  - (H) Seat belt assembly as provided in section 291-11.6;
- (2) Street rod vehicles and street rod replica vehicles shall be equipped in such a manner that no part of a vehicle, other than the vehicle's tires, will make contact with the surface of a flat highway when the vehicle is operated on the same;
- (3) Bumpers, hoods, door handles, and fenders shall be optional equipment on street rod vehicles and street rod replica vehicles; and
- (4) Bumpers, hoods, door handles, and fenders shall be optional equipment on vehicles manufactured before 1968, and on vehicles manufactured after 1967 to resemble a vehicle manufactured before 1968.

In the event of a conflict between this subsection and equipment requirements specified in chapters 286, 291 and 291C, this subsection shall control.

(e) If a street rod replica vehicle was assembled from a manufactured kit as a complete kit to construct a new vehicle consisting of a prefabricated body and chassis, the year of the vehicle shall be the year the vehicle resembles as reflected on the manufacturer's certificate of origin. If a street rod replica vehicle was assembled from a manufactured kit as components manufactured before 1968 or components manufactured after 1967 to resemble a vehicle manufactured before 1968, the year of the vehicle shall be the year the vehicle resembles as reflected on the manufacturer's certificate of origin. The certificate of title for a street rod replica vehicle shall be for the make and year the vehicle resembles, and the body type of the vehicle shall be street rod vehicle replica (STRD-RPLC).

(f) The state vehicle identification number of a street rod replica vehicle that was assembled from a manufactured kit as a complete kit to construct a new vehicle consisting of a prefabricated body and chassis shall be taken from the manufacturer's certificate of origin. The state vehicle identification number shall be assigned by the director of finance of the county in which the vehicle resides; provided that not more than one hundred vehicle identification numbers shall be issued annually.

The state vehicle identification number of a street rod replica vehicle that was assembled from a manufactured kit as components manufactured before 1968 or components manufactured after 1967 to resemble a vehicle manufactured before 1968, shall be taken from the manufacturer's certificate of origin or provided by the director of finance of the county in which the vehicle resides.

To obtain a state vehicle identification number under this subsection, the owner of a street rod replica vehicle shall provide:

- (1) Ownership documents from the manufacturer of the kit or components;
- (2) All shipping and freight documents for the kit or components; and
- (3) A weight certificate issued by a state-certified scale for the actual weight of the vehicle.

(g) A state vehicle identification number shall be issued to a street rod replica vehicle when the vehicle identification number is absent from the body or frame, or both, of the vehicle; or when the vehicle identification number is absent from the manufacturer's certificate of origin. The state vehicle identification number shall be assigned by the director

of finance of the county in which the vehicle resides; provided that not more than one hundred vehicle identification numbers shall be issued annually. [L 1997, c 246, §2; am L 2004, c 126, §2]

" **§286-27 Permits to operate official inspection stations.**

(a) The department of transportation, referred to in this section and sections 286-28 and 286-29 as "the department", shall be responsible for issuing permits for and furnishing instructions and all forms to official inspection stations. The stations shall operate in the manner directed by the department pursuant to standards established by the director of transportation.

(b) Application for an official inspection permit shall be made upon an official form and shall be granted only when the department is satisfied that the station is equipped properly and has competent personnel to make the required inspections. Before issuing a permit, the department shall require the applicant to file proof that the applicant has, in effect, a liability insurance policy, issued to the applicant by an insurance company authorized to do business in the State, insuring against the liability of the applicant and any of the applicant's employees in minimum amounts as follows: comprehensive public liability insurance in the amount of \$10,000 for one person and \$20,000 for one accident and comprehensive property damage insurance of \$5,000; provided that the director of transportation by rules may establish higher limits; provided that the proof of insurance need not be filed by an applicant who shall inspect only vehicles owned by the applicant; and provided further that the proof of insurance need not be filed by instrumentalities of the United States.

(c) Official inspection stations in this State shall be exempt from liability arising from the destruction of property or injury to persons caused by special interest vehicles; provided that the official inspection station:

- (1) Meets the requirements of subsection (b); and
- (2) Exercises due diligence in inspecting special interest vehicles in accordance with applicable standards for motor vehicle and equipment safety for special interest vehicles.

(d) A permit for an official station shall not be assigned or transferred or used at any location other than that designated by the department and every permit shall be posted in a conspicuous place at the location designated.

(e) The counties shall provide for the necessary administrative and enforcement services.

(f) The counties shall be reimbursed the costs incurred in providing the services under subsection (e). [L 1967, c 214, pt of §2; HRS §286-27; am L 1968, c 48, §2(c); am L 1969, c 128, §1(5); am L Sp 1977 1st, c 20, §12; gen ch 1985; am L 1988, c 253, §2; am L 1989, c 326, §2; am L 1997, c 246, §4]

### **Attorney General Opinions**

Military post and base exchanges as official inspection stations; compliance with statute may be required. Att. Gen. Op. 69-3.

" **§286-28 Suspension or revocation of permits.** The department shall supervise and cause inspections to be made of official inspection stations and shall suspend or revoke and require the surrender of the permit issued to a station which it finds is not properly conducting inspections. The department shall maintain and post at its office lists of all stations holding permits and those whose permits have been suspended or revoked. [L 1967, c 214, pt of §2; HRS §286-28; am L 1968, c 48, §2(c)]

" **§286-29 Improper representation as official inspection station.** Any person who shall in any manner represent that the business operated at any location is an official inspection station without a permit issued by the department under section 286-27, or any person other than a person operating an inspection station under a permit granted by the department who issues a certificate of inspection shall be fined not more than \$1,000 or imprisoned not more than one year, or both. [L 1967, c 214, pt of §2; HRS §286-29; am L 1968, c 48, §2(c)]

" **§286-30 False certificates.** Any person who makes, issues, or knowingly uses any imitation or counterfeit of an official certificate of inspection, or any person who displays or causes or permits to be displayed upon any vehicle any certificate of inspection knowing the same to be issued for another vehicle or issued without an inspection having been made or issued without authority as provided herein shall be fined not more than \$1,000 or imprisoned not more than thirty days, or both. [L 1967, c 214, pt of §2; HRS §286-30; am L 1998, c 287, §1]

### **"PART III. REGISTRATION OF VEHICLES**

**§286-41 Application for registration; full faith and credit to current certificates; this part not applicable to certain equipment.** (a) Every owner of a motor vehicle which is

to be operated upon the public highways shall, for each vehicle owned, except as herein otherwise provided and except as provided in section 286-42(c), apply to the director of finance of the county where the vehicle is to be operated, for the registration thereof. If a vehicle is moved to another county and is to be operated upon the public highways of that county, the existing certificate of registration shall be valid until its expiration date, at which time the owner shall apply to the director of finance of the county in which the vehicle is then located for the registration of the vehicle, whether or not the owner is domiciled in the county or the owner's principal place of business is in that county, except that this provision shall not apply to vehicles which are temporarily transferred to another county for a period of not more than three months.

(b) Application for the registration of a vehicle shall be made upon the appropriate form furnished by the director of finance and shall contain the name, occupation, and address of the owner and legal owner; and, if the applicant is a member of the United States naval or military forces, the applicant shall give the organization and station. All applications shall also contain a description of the vehicle, including the name of the maker, the type of fuel for the use of which it is adapted (e.g., gasoline, diesel oil, liquefied petroleum gas), the serial or motor number, and the date first sold by the manufacturer or dealer, and such further description of the vehicle as is called for in the form, and such other information as may be required by the director of finance, to establish legal ownership. A person applying for initial registration of a neighborhood electric vehicle shall certify in writing that a notice of the operational restrictions applying to the vehicle as provided in section 291C-134 are contained on a permanent notice attached to or painted on the vehicle in a location that is in clear view of the driver.

(c) If the vehicle to be registered is specially constructed, reconstructed, or rebuilt; is a special interest vehicle; or is an imported vehicle, this fact shall be stated in the application and upon the registration of the special interest motor vehicle and imported motor vehicle, which has been registered until that time in any other state or county, and the owner shall surrender to the director of finance the certificates of registration or other evidence of such form of registration as may be in the applicant's possession or control. The director of finance shall grant full faith and credit to the currently valid certificates of title and registration describing the vehicle, the ownership thereof, and any liens noted thereon, issued by any title state or county in which the vehicle was last registered. The acceptance by the director of

finance of a certificate of title or of registration issued by another state or county, as provided in this subsection, in the absence of knowledge that the certificate is forged, fraudulent, or void, shall be a sufficient determination of the genuineness and regularity of the certificate and of the truth of the recitals therein, and no liability shall be incurred by any officer or employee of the director of finance by reason of so accepting the certificate.

(d) The owner of every motor vehicle of the current, previous, and subsequent year model bought out-of-state, subsequently brought into the State, and subject to the use tax under chapter 238 shall provide with the application for registration proof of payment of the use tax pursuant to requirements established by the department of taxation. No registration certificate shall be issued without proof of payment of the use tax.

(e) Notwithstanding any other law to the contrary, the director of finance of the county in which the application for registration is sought shall not require proof of insurance as a condition to satisfy the requirements of this part. This subsection shall apply only to the initial registration of any motor vehicle.

(f) The provisions of this part requiring the registration of motor vehicles shall not apply to:

- (1) Special mobile equipment;
- (2) Implements of husbandry temporarily drawn, moved, or otherwise propelled upon the public highways; and
- (3) Aircraft servicing vehicles which are being used exclusively on lands set aside to the department of transportation for airport purposes. [L 1929, c 197, §1; RL 1935, §2665; RL 1945, §7336; am L 1951, c 168, §1(b), (c); am L 1953, c 69, §1; am L 1955, c 165, §1; RL 1955, §160-2; HRS §286-41; am L 1984, c 276, §5; gen ch 1985; am L 1986, c 33, §2 and c 50, §2; am L 1987, c 171, §1; am L 1997, c 246, §5; am L 1999, c 262, §2(2); am L 2002, c 225, §2; am L 2003, c 3, §9; am L 2015, c 47, §2]

#### **Cross References**

Interisland shipping of vehicles, see §286-271.

#### **Case Notes**

Use of automobile subject to extensive police regulations. 31 H. 726, aff'd 54 F.2d 313.

" **§286-42 County finance director's duties.** (a) The county director of finance shall examine and to the best of the director's ability determine the genuineness and regularity of every registration and transfer of registration of a vehicle pursuant to this part to ensure that every certificate issued for a vehicle contains true statements of the ownership of the vehicle and to prevent the registration of a vehicle by any person not entitled to the vehicle. The director of finance may require any applicant to furnish information, in addition to that contained in the application, that is necessary to satisfy the director of finance of the truth and regularity of the application. The director of finance may accept any county certificate of title issued for a vehicle as prima facie evidence of ownership for registration and transfer of registration. The director may issue vehicle identification numbers for reconstructed vehicles, special interest vehicles, or motorcycles that do not have vehicle identification numbers if the director determines that the requirements of this section have been met.

The county director of finance may register a motorcycle with an aftermarket motorcycle frame, using the number of the frame as issued by the manufacturer of the frame, the vehicle identification number on the certification label, or a vehicle identification number assigned by the director of finance. A bill of sale and Manufacturer's Statement of Origin for the frame, engine, and transmission must be presented and retained as a part of the permanent county registration records. If a Manufacturer's Statement of Origin is not available for the engine and transmission due to the use of a used or reconstructed engine, transmission, or both, then a bill of sale or other proof of ownership, satisfactory to the director of finance must be presented. Except for motorcycles that are built on an aftermarket motorcycle frame, special interest vehicles, and reconstructed vehicles, any motor vehicle or device that is not certified by the manufacturer to be in compliance with all applicable Federal Motor Vehicle Safety Standards as of the date of [manufacture] shall not be registered.

(b) For the purpose of registering standard makes and body types of new passenger motor vehicles the director of finance may accept the certificate of any licensed motor vehicle dealer certifying to the weight and identification of such vehicle. The director of finance of any county may accept the certificate of the director of finance of any other county as to weight and identification of any such vehicle.

(c) The director of finance may enter into a contract with car dealerships and motor vehicle rental companies for the



registration of new and used motor vehicles consistent with any statute, ordinance, or provision of any applicable collective bargaining agreement. The director of finance may adopt rules pursuant to chapter 91 as may be necessary for the application, bonding, and procedural requirements of the contractor.

(d) In the event the director of finance is not satisfied as to the ownership of any vehicle sought to be registered, unless the applicant presents satisfactory evidence to the director of finance of the applicant's ownership of the vehicle and as to any liens thereon, the director of finance may accept from the applicant a bond in such form as may be determined by the director of finance in an amount equal to the retail value of the vehicle. The bond and the deposit thereof shall be conditioned to protect the director of finance and any subsequent purchaser of the vehicle or person acquiring any lien thereon or the successor in interest of any such person against any loss or damage on account of any defect in or undisclosed encumbrance upon the right, title, and interest of the applicant in and to the vehicle. Any such interested person shall have a right of action to recover on any such bond for any breach of the conditions for which the same was deposited. The aggregate liability of the surety to all such persons shall in no event exceed the amount of the bond and interest thereon, plus a reasonable attorney's fee to be allowed by the court incurred to procure the recovery under the bond. The bond shall (unless suit has been instituted thereon) be returned and surrendered at the end of three years.

(e) The county finance director, upon being notified by the designated county department that a vehicle is a special interest vehicle or that a vehicle has been inspected and approved as a reconstructed vehicle, shall cause that fact to be shown upon the registration and title certificates for that vehicle. [L 1929, c 197, §2; RL 1935, §2666; RL 1945, §7337; am L 1949, c 162, §1; am L 1953, c 69, §2; RL 1955, §160-3; am L Sp 1959 2d, c 1, §16; HRS §286-42; am L 1977, c 77, §3; am L 1984, c 276, §6; gen ch 1985; am L 1992, c 135, §1; am L 1995, c 164, §2; am L 1996, c 108, §1; am L 1997, c 246, §6; am L 2002, c 255, §3; am L 2011, c 64, §2; am L 2015, c 47, §3]

" **§286-43 Defacing serial numbers, etc., of motor vehicles.** It shall be unlawful for any person to wilfully deface, destroy, or alter the serial number, a component part number, or identification mark of any vehicle, so placed or stamped on any vehicle by the manufacturer for the purpose of identifying the vehicle or its component parts, nor shall any person place or stamp any serial, motor, or other number or mark upon a vehicle, except one assigned thereto by the director of finance.

This section does not prohibit the restoration by an owner of an original motor, or other mark or number, when the restoration is authorized in writing by the director of finance, nor prevent any manufacturer from placing in the ordinary course of business, numbers or marks upon new motor vehicles or new parts thereof. [L 1965, c 5, pt of §1b; Supp, §160-4.1; HRS §286-43]

#### Revision Note

"Director of finance" substituted for "treasurer" to conform to county charters.

" **§286-44 Unlawful to possess certain motor vehicles, parts, etc.; forfeiture.** (a) It shall be unlawful for any person to possess a motor vehicle, a motor block, or any part thereof, knowing that the motor number, serial number, or manufacturer's number, placed on the same by the manufacturer for the purpose of identification, has been changed, altered, erased, or mutilated, for the purpose of changing the identity of the motor vehicle, motor, motor block, or any part thereof. All such motor vehicles, motor blocks, or parts from which the manufacturer's identification number has been removed, defaced, or altered shall be forfeited to the county where found and if not identified may be sold at public auction or destroyed. If identified, all persons having an interest in the motor vehicle, motor block, or part shall be notified, there shall be assigned a new registration number, and the motor vehicle, motor block, or part shall be returned to the owner entitled to possession.

(b) The chief of police of each county or officers of the county police who are permanently assigned to conduct vehicle theft investigations may immediately inspect, during normal business hours or whenever the dealer or dealer's agents or employees are otherwise present, any records required by chapter 286, 289, or 445 and any articles described in such records that the police reasonably believe are stolen goods, limited to the purpose of establishing rightful title or registration of vehicles or identifiable vehicle components in order to determine rightful ownership or possession, on the premises of:

- (1) Any motor vehicle repair dealer required to be licensed under chapter 437B; or
- (2) Any person licensed pursuant to sections 289-2 and 289-3 to engage in the business of purchasing or selling used motor vehicle parts or accessories, or wrecking, salvaging, or dismantling motor vehicles for the purpose of reselling the parts or accessories thereof.

As used in this section, "identifiable vehicle component" means any component of a motor vehicle, including motor block or part that can be distinguished from other similar components by a serial number or other unique distinguishing number, sign, or symbol. Whenever possible, inspections conducted pursuant to this subsection shall be conducted at a time and in a manner so as to minimize any interference with, or delay of, business operations. [L 1965, c 5, pt of §1b; Supp, §160-4.2; HRS §286-44; am L 1972, c 69, §1; am L 1998, c 98, §1; am L 2000, c 35, §1]

### Case Notes

Trial court did not err in finding that trucks were contraband where there was substantial evidence to support court's finding that the VINs of the two trucks had been "changed, altered, erased, or mutilated, for the purpose of changing the identity of the motor vehicle", and defendant's possession of not one, but two trucks with altered VINs, when considered with defendant's bargain-basement purchases of two other trucks from which elements of identity were taken for the two other trucks, gave substantial support for the inference that defendant knew of the alterations and their purpose. 101 H. 422 (App.), 70 P.3d 648.

Where trial court failed to fulfill its statutory mandate under subsection (a) that truck "be returned to the owner entitled to possession" by failing to determine whether truck was contraband under this section, judgment vacated. 101 H. 422 (App.), 70 P.3d 648.

" **[§286-44.5] Salvage certificate.** (a) An application for a salvage certificate shall be accompanied by a fee in an amount determined by the director of finance and shall contain:

- (1) The name and address of the applicant;
- (2) A description of the vehicle being salvaged; and
- (3) Any further information reasonably required by the director of finance.

(b) A salvage certificate shall authorize the holder of the certificate to possess, transport but not drive upon a highway, and transfer ownership in a salvage vehicle.

(c) A salvage certificate shall contain the word "salvage" on the face of the certificate and shall be made upon forms prescribed by the director of finance. [L 1984, c 276, §1]

" **§286-45 Records of county finance director.** The director of finance shall file each application received and register the

vehicle therein described in a record or book to be kept by the director of finance under the following headings:

- (1) Vehicle registration number;
- (2) Name of owner; and
- (3) Vehicle identification number.

The director of finance may microfilm vehicle registration and ownership records which are a year old and may discard the original records. The director of finance may discard vehicle registration and ownership records which are older than six years. [L 1929, c 197, §§4, 5; RL 1935, §2668; RL 1945, §7339; RL 1955, §160-5; am L 1959, c 87, §1; am L 1967, c 61, §1; HRS §286-45; am L 1969, c 268, §1; am L 1970, c 73, §1(b); gen ch 1985; am L 1998, c 234, §§2, 29; am L 1999, c 263, §2; am L 2000, c 240, §§2, 21; am L 2001, c 55, §12; am L 2002, c 58, §2]

" **§286-46 Tax lien and encumbrance record.** (a) The director of finance shall keep a book or record to be known as the "tax lien and encumbrance record" in which the following information shall be entered:

- (1) Notices of liens for internal revenue taxes payable to the United States and certificates of release thereof;
- (2) Notices of liens, taxes, or judgments payable to the State or county and certificates of release thereof;
- (3) Notices of seizure in accordance with law of any registered motor vehicle upon any writ of attachment, execution, or other process issued under authority of law;
- (4) Notices of restraining order or other order affecting the registration of any registered motor vehicle;
- (5) Notice of any proceeding or action affecting the title of a registered motor vehicle or the interest of the owner or legal owner thereof; and
- (6) Notice of release of any of the foregoing.

(b) With the exception of delinquent taxes and penalties imposed by section 249-10, the record shall show the year, month, day, hour, and minute at which the notice has been filed with the director of finance, shall show the nature and kind of lien or encumbrance claimed, the amount of tax or other claim, with interest, penalties, and costs, and shall identify the registered motor vehicles affected by the lien or encumbrance, and shall contain such further information as the director of finance may require. The record shall be a public record and may be arranged in such manner as the director of finance determines.

The interest of the owner or the legal owner in the motor vehicle shall not be deemed to be affected until the notice referred to in subsection (a)(1) to (5) has been filed with the

director of finance in such form as the director of finance shall prescribe for entry in the tax lien and encumbrance record; provided the director of finance may require the payment of delinquent taxes and penalties as a condition precedent to the vehicle's renewal, registration, or transfer of ownership; provided further that a taxpayer may enter into a payment plan with the director of taxation in lieu of paying a tax delinquency in full, in which case an entry in the tax lien and encumbrance record shall be avoided. The director of finance shall charge a fee of \$5 for each entry made in the tax lien and encumbrance record, which shall be deposited in the general fund; provided that state and county agencies shall not be charged a fee for any entry made in the tax lien and encumbrance record if the state or county agency provides to the director of finance the license plate number or vehicle identification number of the vehicle to be flagged.

Nothing in this section shall be deemed to alter or amend any statute relating to tax liens or the enforcement thereof. [L 1949, c 164, §1; RL 1955, §160-6; HRS §286-46; am L 1969, c 98, §1; am L 1993, c 151, §2; am L 1995, c 164, §3; am L 2012, c 67, §2]

" **§286-47 Certificate of registration; certificate of ownership; containers.** Upon the registration of a vehicle, the director of finance shall issue a certificate of registration to the owner and a certificate of ownership to the legal owner, or to a dealer who shall be a person licensed to sell new motor vehicles under chapter 437 which certificates shall meet the following requirements:

- (1) Both the certificate of registration and the certificate of ownership shall contain upon the face thereof, the date issued, the registration number assigned to the owner and to the vehicle, the name and address of the owner and legal owner in typewriting, also such description of the registered vehicle as may be determined by the director of finance. If any of the information subsequently proves to be a typographical error, the dealer, as defined in section 437-1.1, shall notify the director of finance of the error by a written certificate stating the reasons for and nature of the error and the correction which should be made in the certificate of registration and the certificate of ownership. Upon receipt of the dealer's certificate by the director of finance, the certificate of registration and the certificate of ownership shall be corrected accordingly so long as the correction does not constitute a change of the

vehicle originally registered. A fee shall be paid to the director of finance for each instance of correction of the registration records. The fee charged for each instance of correction of the registration records shall be established by the county's legislative body;

- (2) In addition to the requirements provided for in paragraph (1) above, the face of the certificate of ownership shall contain endorsement lines for the transfer of title or interest of the registered owner and legal owner, and the odometer reading of the vehicle on the date of transfer. The reverse side of the certificate of ownership shall contain the application for registration by the transferee;
- (3)
  - (A) Every owner shall keep the certificate of registration within the vehicle for which it is registered and shall present the same at the request of a police officer, or in the event the vehicle is a motorcycle, shall carry such certificate in a convenient receptacle attached to the vehicle and which shall be presented at the request of a police officer;
  - (B) This shall not apply to state or county vehicles readily identified by the license plates and markings on sides of such vehicles;
  - (C) This shall not apply to commercial vehicles defined as rental motor vehicles, or cars shipped by licensed car dealerships or repossession companies. These businesses may keep a duplicate copy of the certificate of registration within the vehicle for which it is registered, in which case the certificate of registration shall be available for inspection at their principal place of business within the State; and
  - (D) This requirement to carry the certificate of registration with the vehicle shall not apply when such certificate is removed from the vehicle for the purpose of application for renewal, transfer of registration, or to record a change in the registration. [L 1929, c 197, §§6, 13; RL 1935, §2669; RL 1945, §7340; am L 1949, c 166, §1; am L 1953, c 131, §1(a), (b); RL 1955, §160-7; HRS §286-47; am L 1970, c 73, §1(a); am L 1972, c 159, §1; am L 1980, c 141, §1; am L 1981, c 44, §1 and c 82, §18; am L 1998, c 95, §1]

" **[§286-47.2] Certificate of trailer registration.** Upon the registration of a trailer, the director of finance shall issue a certificate of registration to the owner, dealer, or manufacturer of the trailer. The certificate shall meet the following requirements:

- (1) It shall contain upon the face thereof, the date it was issued, the license plate number assigned to the vehicle, the vehicle identification number of the vehicle, the name and address of the registered owner of the vehicle, and such description of the registered vehicle as may be required by the director of finance. If any of the information subsequently proves to be incorrect due to a typographical error, the dealer, manufacturer, or owner of the trailer shall notify the director of finance of the error by a written certificate stating the reasons for and nature of the error and the correction that should be made on the certificate of registration. Upon receipt of such notification by the director of finance, the certificate of registration shall be corrected accordingly so long as the correction does not constitute a change of the vehicle originally registered. A fee shall be paid to the director of finance for each instance of correction of the registration records. The fee charged for each instance of correction of the registration records shall be established by the county's legislative body.
- (2) In addition to the requirements provided for in paragraph (1), the face of the certificate of registration shall contain endorsement lines for the transfer of interest of the registered owner of the trailer.
- (3) Every owner of a trailer, except for those trailers owned by a company or person operating under the jurisdiction of the public utilities commission, shall carry the certificate of registration with the trailer and shall present the certificate at the request of a police officer. This requirement to carry the certificate of registration with the trailer shall not apply when the certificate is removed for the purpose of application for renewal, transfer of registration, or to record a change in the registration.
- (4) The director of finance shall not issue a certificate of ownership for a trailer nor record any liens upon or legal ownership to the trailer. [L 1985, c 27, pt of §1]

" **[§286-47.5] Notice of change of address or name; penalty.**

(a) If the address of a registered owner of a motor vehicle is changed from that stated on the application or the certificate of registration, the registered owner shall, within thirty days after the change, notify the appropriate county director of finance, in writing, of the change, stating the registered owner's old and new addresses.

(b) If the name of a registered owner of a motor vehicle is changed from that shown on the application or the certificate of registration or certificate of ownership, the registered owner shall, within thirty days after the change, notify the appropriate county director of finance, in writing, of the change and shall submit together with the notice, the certificate of ownership, the current year's certificate of registration, if any has been issued to the registered owner, and proof of the change of name. Upon receipt of the certificate of ownership, certificate of registration, if any, and satisfactory proof of the change of name, the county director of finance shall issue a new certificate of ownership and certificate of registration. The charge for the issuance of a new certificate of ownership and certificate of registration shall be as provided by law except that in the case of individual owners, no charge shall be made.

(c) For the purposes of this section, the following terms shall have the following meanings:

- (1) "Registered owner" includes an applicant for registration of a motor vehicle the processing of whose application has not been completed by the issuance of a certificate of registration and a certificate of ownership.
- (2) "Individual owners" excludes corporate owners of motor vehicles.

(d) Any person who violates this section shall be fined not more than \$25. [L 1975, c 43, §1; gen ch 1985]

" **§286-48 Certificates of ownership of salvaged motor vehicles.** (a) Whenever a motor vehicle subject to registration under this part is sold as salvage or conveyed to an insurance company, in the ordinary course of business or as the result of a total loss insurance settlement where the insurance company receives the certificates of registration and ownership, the purchaser or, if an insurance company its authorized agent, shall within ten days from the purchase, or the settlement of the insurance loss, forward the motor vehicle's endorsed certificate of ownership or other evidence of title, certificate of registration, license plates, and an application for a salvage certificate as provided for in section 286-44.5, to the



director of finance. If the certificate of registration or one or both license plates are lost, an affidavit, duly notarized and signed by the party responsible for the compliance of this section stating that the party has no knowledge of the location of the certificate of registration or the license plates, shall be filed with the director of finance of the county having jurisdiction over the vehicle. In any event the certificate of ownership or other evidence of title shall be forwarded to the director of finance.

(b) Upon receipt of the certificate of ownership, certificate of registration, license plates, and application for a salvage certificate, the director of finance shall issue a salvage certificate in the name of the purchaser or insurance company.

(c) Upon resale of the salvage vehicle, the seller or, if the seller is an insurance company, its authorized agent shall transfer the salvage certificate and issue a bill of sale to the purchaser which shall be on a form prescribed by the director of finance. The seller shall notify the purchaser, in writing, of the requirements of this chapter regarding the recertification of salvage vehicles. The seller shall sell the salvage vehicle only to a person licensed pursuant to chapter 437B, sections 289-4, or 445-232, or any person who executes an affidavit which states whether or not the salvage vehicle would be used to construct a rebuilt vehicle as defined in section 286-2 and that if the salvage vehicle is to be rebuilt, the purchaser will register the rebuilt vehicle as required by this chapter.

(d) In the event the salvage vehicle is rebuilt so as to be capable of again operating on the highways of this State, the motor vehicle shall not be licensed for such operation, nor shall the ownership thereof be transferred until there is submitted to the director of finance:

- (1) The prescribed bill of sale;
- (2) An appropriate application for registration of the rebuilt or restored motor vehicle along with the salvage certificate and a certificate of inspection signed by the registered or certified motor vehicle repair dealer who is bonded as required by section 437B-26, and who rebuilt the vehicle, attesting that the original recognized vehicle manufacturer's established repair procedures or specifications and allowable tolerances for the particular model and year were utilized and adhered to; and
- (3) Any other document and fee required by the director of finance.

The counties may, by ordinance, establish the fee to be charged for the inspection of rebuilt motor vehicles.

(e) Whenever a certificate of registration and certificate of ownership is issued for a motor vehicle with respect to which a salvage certificate has been previously issued, the new certificates shall conform to the requirements of section 286-47 and:

- (1) Bear the words "Rebuilt Vehicle"; and
- (2) Appear in such a manner as to distinguish them from the certificate of registration and certificate of ownership for motor vehicles other than rebuilt or restored motor vehicles.

(f) In the event a total loss insurance settlement between an insurance company and its insured or a claimant for property damage caused by its insured results in the retention of the salvage vehicle by the insured or claimant, as the case may be, then in such event, the insurance company or its authorized agent shall notify, within ten days from the date of settlement, the director of finance of such retention by its insured or claimant, as the case may be, and shall notify its insured, or claimant as the case may be, in writing, of the requirements of this chapter regarding the recertification of salvage vehicles. The notification shall be on a form prescribed by the director of finance. [L 1967, c 178, §2; HRS §286-48; am L 1969, c 194, §1; am L 1984, c 276, §7; gen ch 1985; am L 1986, c 74, §2; am L 1987, c 51, §1; am L 1988, c 315, §1]

" **§286-49 Registration of vehicles under two or more names.** Unless otherwise specifically stated by a written document, any vehicle registered in the names of two or more persons shall be presumed to be owned in joint tenancy. [L 1967, c 266, §1; HRS §286-49; am L 1999, c 221, §1]

" **§286-50 Registration of vehicle located outside State; correction of errors; fee for correcting errors.** (a) The director of finance of a county shall not accept an application for registration of any vehicle under this part unless the vehicle at the time of application is to be operated on the public highways of that county as required under section 286-41 or, if the vehicle is not within the State, the vehicle is currently registered in the State in the name of a bona fide resident of the State. However, the director of finance shall accept and grant an application and issue number plates for a new unlicensed vehicle which is not within the State when the application is accompanied by a written certificate signed by the seller, who shall be a person licensed to sell new motor vehicles under chapter 437, giving the name and local address of the seller and the purchaser and a description of the vehicle, including a statement of the weight thereof, and, when the

vehicle identification numbers of such new vehicle are not available, a statement of such fact, and also by a written certificate of the purchaser giving the purchaser's name, the purchaser's local address and permanent residence, and the name of the seller, a full description of the vehicle, and a statement that the use tax payable thereon has been paid or that the same will be paid within sixty days of the arrival of the vehicle in the State. One copy of the application when granted shall be furnished by the director of finance to the director of taxation. In a case where the vehicle identification numbers of the new vehicle are not available at the time of the application, the dealer shall certify to the vehicle identification numbers thereof upon receipt of the numbers from the factory or manufacturer, which certificate the director of finance shall enter in the director of finance's registration records. Within sixty days after arrival in the State of any such vehicle, unless the same has been shown in the application or subsequent certification, the dealer shall furnish to the director of finance a certificate of the dealer, identifying the vehicle by the vehicle identification numbers or other description, and evidence of arrival in the State of any such vehicle, which information the director of finance shall enter in the director of finance's registration records.

If the vehicle identification numbers of the vehicle, as given in the dealer's certificate of the vehicle identification numbers, subsequently prove to be erroneous on account of error in the information received by the dealer from the factory or manufacturer, or for any other reason, the dealer shall notify the director of finance of the error by a written certificate of the dealer stating the reasons for the nature of the error and the correction which should be made in the registration records; and upon receipt of the dealer's certificate by the director of finance, the registration records shall be corrected accordingly. A fee of \$3 shall be paid by the dealer and collected by the director of finance for each instance of correction of the registration records.

(b) Notwithstanding the first paragraph of subsection (a), the director of finance shall accept and grant an application, and issue number plates, when the vehicle, although not within the State, is to be registered in the name of bona fide residents of the State, and the application is accompanied by:

- (1) A written certificate setting forth the name, local address of the applicant; the name and business address of the seller; a full description of the vehicle, including a manufacturer's statement of the weight thereof, and the vehicle identification numbers verified by a law enforcement agency; and such other

information as may be required by the director of finance;

- (2) A copy of the bill of sale and such other documents as may be required by the director of finance, to establish legal ownership; and
- (3) A written statement signed by the applicant stating that the use tax payable thereon will be paid within sixty days of the arrival of the vehicle in the State.

The applicant shall be responsible for supplying to the director of finance all information relative to the correct vehicle identification numbers, and the payment of correction fees, in the same manner and to the same extent as is required hereinabove of a dealer. One copy of the application, when granted, shall be furnished by the director of finance to the state director of taxation.

No tax or other fees required by law in connection with the registration of a vehicle not within the State at the time of the application shall be refundable. [L 1949, c 167, §1; am L 1951, c 168, §1(d); am L 1953, c 131, §1(c), (d), (e); am L 1955, c 175, §1; RL 1955, §160-8; am L Sp 1959 2d, c 1, §16; am L 1965, c 137, §1 and c 155, §§1, 2; HRS §286-50; gen ch 1985; am L 1987, c 171, §2; am L 1989, c 292, §1]

#### **Revision Note**

"Director of finance" substituted for "treasurer" to conform to county charters.

" **§286-51 Registration, expense.** (a) The certificate of registration for each motor vehicle in the counties of the State shall be renewed on a staggered basis as established by each county. The director of finance of each county may adopt rules to carry out the purposes stated in this section and shall expend the necessary funds from the director's operating funds as may be necessary for these purposes; provided that the director of finance, if the director has ascertained as of the date of the application that the registered owner has not deposited or paid bail with respect to any summons or citation issued to the registered owner for stopping, standing, or parking in violation of traffic ordinances within the county, may require, as a condition precedent to the renewal, that the registered owner deposit or pay bail with respect to all such summonses or citations. The certificates of registration issued hereunder shall show, in addition to all information required under section 286-47, the serial number of the tag or emblem and shall be valid during the registration year only for which they are issued. The certificates of ownership need not be renewed

annually but shall remain valid as to any interest shown therein until canceled by the director of finance as provided by law or replaced by new certificates of ownership as hereinafter provided.

(b) This part shall be administered by the director of finance in conjunction with the requirements of sections 249-1 to 249-13 and shall entail no additional expense or charge to the person registering the ownership of a motor vehicle other than as provided by this section or by other laws; provided that for each new certificate of ownership issued by the director of finance under section 286-52, the director of finance may charge a fee which shall be deposited in the general fund. The fees charged to issue a new certificate of ownership shall be established by the county's legislative body.

Notwithstanding any other law to the contrary, an additional fee of not more than \$1 for each certificate of registration for a U-drive motor vehicle and \$2 for each certificate of registration for all other motor vehicles may be established by ordinance and collected annually by the director of finance of each county, to be used and administered by each county:

- (1) For the purpose of beautification and other related activities of highways under the ownership, control, and jurisdiction of each county; and
- (2) To defray the additional cost in the disposition and other related activities of abandoned or derelict vehicles as prescribed in chapter 290. For the purposes of this paragraph, other related activities shall include but need not be limited to any and all storage fees that are negotiated between each county and a towing company contracted by the county to remove and dispose of abandoned or derelict vehicles.

The \$2 fee established pursuant to this subsection for certificates of registration for motor vehicles other than U-drive motor vehicles may be increased by ordinance up to a maximum of \$10; provided that all amounts received from any fee increase over \$2 shall be expended only for the purposes of paragraph (2). The moneys so assessed and collected shall be placed in a revolving fund entitled, "the highway beautification and disposal of abandoned or derelict vehicles revolving fund". [L 1929, c 197, §7; RL 1935, §2670; am L 1935, c 74, §1; am L 1941, c 298, §2; RL 1945, §7341; am L 1951, c 162, §6; RL 1955, §160-9; am L 1962, c 10, §2; am L 1965, c 125, §§1, 2; HRS §286-51; am L 1972, c 161, §1; am L 1976, c 237, §2; am L 1981, c 44, §2; am L 1982, c 135, §2; am L 1984, c 126, §2; gen ch 1985; am L 1999, c 274, §1; am L 2000, c 111, §1; am L 2007, c 269, §2; am L 2010, c 20, §4]

" **[\$286-51.5] Junking of nonrepairable vehicle.** Any owner of a vehicle, whether it is currently registered or not currently registered, which is incapable of safe operation for use on the public highway and which has no resale value except as a source of parts or scrap only, or which the owner irreversibly designates as a source of parts or scrap, may junk the vehicle upon presenting to the director of finance a signed statement of fact of the junking together with such other relevant facts as may be required by the director of finance, and the signed certificate of title. All nonrepairable vehicles that are junked under this section shall never again be titled or registered. [L 1998, c 3, §2]

" **§286-52 Procedure when title of vehicle transferred; delivery of certificate mandatory.** (a) Upon a transfer of the title or interest of a legal owner in or to a vehicle registered under this part, the person whose title or interest is to be transferred and the transferee shall write their signatures with pen and ink upon the certificate of ownership issued for the vehicle, together with the address of the transferee in the appropriate space provided upon the certificate.

(b) Within thirty calendar days thereafter, the transferee shall forward the certificate of ownership so endorsed to the director of finance who shall file the same; provided that if the recorded lien holder does not have an office in the State, the applicable period shall be sixty days. Whenever a transferee fails to comply with these provisions, the director of finance shall charge a fee of \$50, in addition to the fee provided in section 286-51, for a new certificate of ownership.

(c) Subsection (b), requiring a transferee to forward the certificate of ownership after endorsement to the director of finance, shall not apply to the transferee of a vehicle who was not intending to and does not drive the vehicle or permit the vehicle to be driven upon the public highways, but every such transferee, upon transferring the transferee's interest or title to another, shall give notice of the transfer to the director of finance and endorse the certificate of ownership to the new legal owner and the certificate of registration to the new owner; provided that if the director of finance has ascertained as of the date of the application that the registered owner has not deposited or paid bail with respect to any summons or citation issued to the registered owner for stopping, standing, or parking in violation of traffic ordinances within the county, the director may require, as a condition precedent to the transfer, that the registered owner deposit or pay bail with respect to all such summons or citations.

(d) The director of finance, upon receipt of the certificate of ownership properly endorsed, shall register the vehicle, and shall issue to the owner and legal owner entitled thereto by reason of the transfer a new certificate of registration and the certificate of ownership, respectively, in the manner and form hereinabove provided for original registration.

(e) Until the director of finance has issued the new certificate of registration and certificate of ownership as in subsection (d) provided, delivery of such vehicle shall be deemed not to have been made and title thereto shall be deemed not to have passed, and the intended transfer shall be deemed to be incomplete and not to be valid or effective for any purpose, notwithstanding any provision of the Uniform Commercial Code; provided that a security interest in a motor vehicle shall be perfected as provided in the Uniform Commercial Code, section 490:9-311 and that the validity, attachment, priority, and enforcement of such security interest shall be governed by Article 9 of the Code.

(f) In the event of the transfer by operation of law of the title or interest of a legal owner in and to a vehicle registered under this part, as upon inheritance, devise, or bequest, order in bankruptcy, or insolvency, execution sale, repossession upon default in performance of the terms of a lease or executory sales contract, or otherwise than by the voluntary act of the person whose title or interest is so transferred, the certificate of ownership shall be signed upon the spaces provided by the personal representative, receiver, trustee, sheriff, or other representative, or successor in interest of the person whose title or interest is so transferred in lieu of such person. Every personal representative, receiver, trustee, sheriff, or other representative hereinabove referred to shall file with the director of finance a notice of any transfer by sale, lease, or otherwise by such person, of any such vehicle, together with evidence satisfactory to the director of finance of all facts entitling such representative to make the transfer. Upon notice given to the director of finance that transfer by operation of law of the title or interest of a legal owner or a registered owner has been effected pursuant to any provision of law, the director of finance shall send to the legal owner or the registered owner or both a notice by registered mail of such action and requesting the delivery to the director of finance of the certificate of ownership or the certificate of registration, as the case may be, within ten days after date of mailing of the notice, and any person who refuses or neglects to deliver the same to the director of finance pursuant to the notice shall be

guilty of a misdemeanor and shall be punished as provided in section 286-61.

(g) Nothing in the foregoing subsections shall prevent a legal owner from assigning the title or interest in or to a vehicle registered under this part to another legal owner at any time without the consent of and without affecting the interest of the holder of the certificate of registration thereof. Upon filing with the director of finance of a certificate of ownership endorsed by the legal owner and a transferee of legal ownership, the director of finance shall, whether the certificate of registration has expired or not, enter the name of the new legal owner upon the records of the director's office and shall forthwith issue a new certificate of ownership to the new legal owner in the form for original registration. Upon so doing, the director of finance shall send to the registered owner a notice by mail of the action.

(h) Any person who refuses or neglects to deliver a certificate of ownership to a transferee entitled thereto under this part, shall be punished as provided in section 286-61.

(i) Every dealer, upon transferring a motor vehicle, whether by sale, lease, or otherwise, shall immediately give notice of the transfer to the director of finance upon the official form provided by the director of finance. Every such notice shall contain the date of the transfer, the names and addresses of the transferor and transferee, and such description of the vehicle as may be called for in the official form.

(j) Every person, other than a dealer, upon transferring a motor vehicle, whether by sale, lease, or otherwise, shall within ten days give notice of the transfer to the director of finance upon the official form provided by the director of finance. Every notice shall contain the date of transfer, the names and addresses of the transferor and transferee, and such description of the vehicle as may be called for in the official form. Any person who violates this subsection shall be fined not more than \$100.

(k) Whenever the registered owner of any motor vehicle or any licensed dealer has given notice to the director of finance of a transfer of the title or interest in the motor vehicle, as provided in subsection (i) or (j), and has delivered the certificate of ownership bearing the transferor's signature to the transferee as required by subsection (a), the transferor shall be relieved from any liability, civil or criminal, from the date the transferor delivers the motor vehicle into the transferee's possession, which the transferor might otherwise subsequently incur by reason solely of being the registered owner of the vehicle.



(l) A licensed dealer who has forwarded a properly endorsed certificate of ownership to the director of finance shall be relieved of any civil liability, from the date the transferor delivers the motor vehicle into the transferee's possession, which the transferor might otherwise subsequently incur by reason solely of being the registered owner of the vehicle; provided that a specific written authorization to forward the certificate has been obtained from the transferee.

(m) Any person who falsely or fraudulently gives notice to the director of finance of a transfer of title or interest in a motor vehicle shall be subject to the penalty provided in section 286-61. [L 1929, c 197, §8; RL 1935, §2671; am L 1935, c 74, §2; RL 1945, §7342; am L 1949, c 188, §1; RL 1955, §160-10; am L 1966, c 18, §4; am L 1967, c 79, §3, c 181, §§1, 2, and c 214, §5; HRS §286-52; am L 1968, c 9, §2; am L 1970, c 125, §1; am L 1976, c 200, pt of §1; am L 1978, c 92, §4; am L 1980, c 123, §1 and c 162, §1; am L 1987, c 279, §1; am L 1989, c 211, §10; am L 1990, c 281, §11; am L 1993, c 78, §1; am L 1994, c 70, §§1, 2; am L 1995, c 164, §4; am L 1996, c 13, §5; am L 2000, c 241, §3; am L 2001, c 12, §1]

### **Attorney General Opinions**

The security interest in a motor vehicle required to be registered and which is not inventory may be perfected only by registration. Att. Gen. Op. 67-21.

### **Case Notes**

In event of noncompliance, mortgage creates no lien. 34 H. 407.

The procedures required by statute to effect transfer are mandatory. 34 H. 407.

Issuance of new certificates is condition precedent to valid transfer. 38 H. 279.

Subsection (e). Notwithstanding plain language of section, seller not liable for negligent operation of automobile by buyer merely because treasurer had not yet issued new certificate. 53 H. 208, 490 P.2d 899.

Section was not determinative of ownership for purposes of resolving coverage disputes under automobile insurance policies. 72 H. 80, 807 P.2d 1256.

Subsection (k). Seller not liable for buyer's negligent operation of automobile though seller still registered owner. 6 H. App. 646, 736 P.2d 73.

Cited: 9 H. App. 198, 828 P.2d 1284.

" **[§286-52.4 Terminal rental adjustment clause; vehicle leases.]** In the case of motor vehicles or trailers, notwithstanding any other provision of law, a transaction does not create a sale or security interest merely because it provides that the rental price is permitted or required to be adjusted under the agreement, either upward or downward, by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer. [L 2003, c 21, §2]

" **§286-52.5 Procedure when registration of a trailer transferred.** (a) Upon transfer of registered ownership in or to a trailer, the person whose interest is to be transferred and the transferee shall write their signatures with pen and ink upon the certificate of registration issued for the trailer, together with the address of the transferee in the appropriate space provided upon the certificate.

(b) Within thirty calendar days of the transfer of registered ownership of a trailer, the transferee shall forward the certificate of registration to the director of finance who shall file the certificate. Whenever a transferee fails to comply with this section, the director of finance shall charge the transferee a fee of \$50, in addition to the fee provided in this section, for the issuance of a new certificate of registration.

(c) If the director of finance has ascertained as of the date of the application that the registered owner has not deposited or paid bail with respect to any summons or citation issued to the registered owner for stopping, standing, or parking in violation of traffic ordinances within the county, the director may require, as a condition precedent to the transfer, that the registered owner deposit or pay bail with respect to all such summonses or citations.

(d) The director of finance, upon receipt of the certificate of registration properly endorsed, shall register the trailer and shall issue to the owner thereof by reason of the transfer a new certificate of registration in the manner and form provided for original registration.

(e) Until the director of finance has issued the new certificate of registration as provided in subsection (d), delivery of such trailer shall be deemed not to have been made and registration thereto shall be deemed not to have passed, and the intended transfer shall be deemed to be incomplete and not to be valid or effective for any purpose.

(f) In the event of the transfer by operation of law in or to a trailer registered under section 286-47.2, as upon inheritance, devise, or bequest, order in bankruptcy, or insolvency, execution sale, repossession upon default in

performance of the terms of a lease or executory sales contract, or otherwise than by the voluntary act of the person whose interest is to be transferred, the certificate of registration shall be signed upon the spaces provided by the personal representative of, or successor in interest of the person whose registered ownership or interest is so transferred in lieu of such person. Every personal representative, receiver, trustee, sheriff, or other personal representative hereinabove referred to shall file with the director of finance a notice of any transfer by sale, lease, or otherwise by the person, of any such trailer, together with evidence satisfactory to the director of finance of all facts entitling such representative to make the transfer.

(g) Any person who refuses or neglects to deliver a certificate of registration to a transferee entitled thereto under this section, shall be punished as provided in section 286-61.

(h) Every dealer or manufacturer, upon transferring a trailer, whether by sale, lease, or otherwise, shall immediately give notice of the transfer to the director of finance upon the official form provided by the director of finance. Every such notice shall contain the date of transfer, the names and addresses of the transferor and transferee, and such description of the trailer as may be called for in the official form.

(i) Every person, other than a dealer or manufacturer, upon transferring a trailer, whether by sale, lease, or otherwise, shall within ten days give notice of the transfer to the director of finance upon the official form provided by the director of finance. Every notice shall contain the date of transfer, the names and addresses of the transferor and transferee, and such description of the trailer as may be called for in the official form. Any person who violates this subsection shall be fined not more than \$100.

(j) Whenever the registered owner of any trailer or any dealer or manufacturer has given notice to the director of finance of a transfer of the registered ownership to the trailer, as provided in subsections (h) and (i), and has delivered the certificate of registration bearing the transferor's signature to the transferee as required by subsection (a), the transferor shall be relieved from liability, civil or criminal, which the transferor might subsequently incur by reason of being the registered owner of the trailer.

(k) A dealer or manufacturer who has forwarded a properly endorsed certificate of registration to the director of finance shall be relieved of any civil liability, only if, in addition to the requirement of subsection (j), the dealer or manufacturer

obtains from the transferee a specific written authorization to forward the certificate.

(l) Any person who falsely or fraudulently gives notice to the director of finance of a transfer of registered ownership to a trailer shall be subject to the penalty provided in section 286-61.

(m) The director of finance may charge a fee which shall be deposited in the general fund for each new certificate of registration issued. The fee charged to issue a new certificate of registration shall be established by the county's legislative body. [L 1985, c 27, pt of §1; am L 1989, c 211, §10; am L 1990, c 281, §11; am L 1999, c 219, §1]

" **§286-53 Dealers in new motor vehicles.** (a) A manufacturer of or dealer in new motor vehicles having an established place of business, owning any such new vehicles and operating them upon the public highways, in lieu of registering each such new vehicle, may make application upon an official form provided for that purpose to the director of finance for a permanent number plate.

(b) Every new vehicle owned or controlled by the manufacturer or dealer, and permitted to be registered under a permanent number plate shall be regarded as registered thereunder until the vehicle is sold and the sale has been recorded by the director of finance.

(c) The director of finance shall, upon receipt of the application, or thereafter, furnish to the manufacturer or dealer:

- (1) Permanent number plates which shall be attached to new motor vehicles which are used by the applicant only for demonstration of the new motor vehicles to customers upon the public highways if requested by the applicant. The price of each permanent number plate shall be established by the director of finance under chapter 91. Each permanent number plate shall display upon it the number which is assigned to the applicant and a different letter or number to differentiate it from other plates furnished to the applicant. Permanent number plates which are detached from a new motor vehicle which has been sold may be used on another new motor vehicle; and
- (2) Temporary motor vehicle plates, if the applicant is a new motor vehicle dealer, which plates shall be blank except for an area on the lower right corner which shall be utilized for validation of the temporary plates. The validation shall not be reproducible by any person other than the director of finance, or

director of finance of another county if an agreement is made to utilize a uniform validation, shall signify the official status of the temporary number plate, and be designed to be visible from a distance of two feet.

The directors of finance of any two or more counties may agree to utilize a uniform designation to be placed upon the temporary number plate. The director of finance shall establish the material used for the temporary number plate and a charge by rule under chapter 91 for each temporary number plate.

(d) Whenever the design of the number plates issued under chapter 249 is changed, the new motor vehicle dealer shall apply to the director of finance for the most current permanent number plates. Before issuing the current permanent number plates, the director of finance shall require each applicant to return the permanent number plates issued previously. If any permanent number plates issued previously have been lost or destroyed, the manufacturer or dealer who applies for the permanent number plates shall certify in writing to the director of finance that the permanent number plates have been lost or destroyed and that if any lost permanent number plates are found, they shall be returned forthwith to the director of finance. Upon receipt of the certificate, the director of finance shall issue an equal number of the most current permanent number plates as have been certified to be lost or destroyed.

(e) Whenever a new motor vehicle dealer sells a new motor vehicle to a person, the new motor vehicle dealer shall detach the permanent number plate issued under subsection (c) from that new motor vehicle and replace it with one temporary number plate. The temporary number plate shall be attached to the rear of the vehicle in the same location as required for number plates under section 249-7. The new motor vehicle dealer shall print only the following upon the temporary number plate:

- (1) The date that is thirty working days after the date the new owner takes possession of the motor vehicle, which date shall be placed in the middle of the temporary number plate in numbers not less than four inches in height;
- (2) The name and address of the new owner;
- (3) The name and address of the new motor vehicle dealer;
- (4) The serial number of the new motor vehicle; and
- (5) The date the new motor vehicle owner took possession of the motor vehicle.

Any temporary number plate upon which is placed any drawings, pictures, or words other than what is required by paragraphs (1) through (5), shall be invalid.

The information required by paragraphs (3) through (5) shall be printed in the upper left corner of the temporary number plate.

The temporary number plate shall be valid through the date listed in paragraph (1).

Any person who operates a motor vehicle with an expired temporary number plate shall be fined not more than \$500. Any new motor vehicle dealer who prepares an invalid temporary number plate shall be fined not more than \$500.

(f) No manufacturer or dealer shall permit the operation of any motor vehicle owned or controlled by the manufacturer or dealer upon any public highway, unless permanent number plates assigned to the manufacturer or dealer are attached thereto, in the manner specified in this part; provided that the new vehicles may be operated without permanent number plates attached thereto on the initial continuous movement from the place of entry of the vehicle into this State to the warehouse, storeroom, salesroom, or other place of business selected by the manufacturer or dealer.

(g) Every manufacturer or dealer, upon the sale, lease, or other transfer by the manufacturer or dealer of a new vehicle registered under a general distinguishing number, as herein provided, shall forthwith give notice of the transfer to the director of finance upon the appropriate official form, stating the date of the transfer, a description of the vehicle, the name and post office address of the transferee, and certifying that temporary number plates have been provided for the motor vehicle of the transferee.

Following the transfer, if application for registration has been made by or on behalf of the transferee, the vehicle may be operated until duly registered by the director of finance under chapter 249 and this chapter or until the expiration of the temporary number plates whichever occurs sooner.

(h) The director of finance may, at the director's discretion, grant a temporary permit to operate a vehicle, a registration for which has been applied for.

(i) For the purposes of this section:

- (1) "New motor vehicles" means motor vehicles of the current model year, immediate past model year, or the next model year which have not been sold or registered by the manufacturer or dealer;
- (2) "New motor vehicle dealer" means a dealer licensed under chapter 437 to engage in the business of selling at wholesale or retail or both, new motor vehicles or used motor vehicles;
- (3) "Permanent number plate" means a number plate furnished to a manufacturer or dealer under subsection

(c)(1) for a motor vehicle which is similar to the number plate issued under section 249-7 and which allows the motor vehicle to be operated on the public highways; and

- (4) "Temporary number plate" means the number plate furnished to a new motor vehicle dealer under subsection (c)(2). [L 1929, c 197, §9; RL 1935, §2672; am L 1941, c 211, §1; RL 1945, §7343; am L 1949, c 162, §2; am L 1953, c 131, §1(f); RL 1955, §160-11; am L 1967, c 92, §1; HRS §286-53; am L 1980, c 133, §4; gen ch 1985; am L 1987, c 319, §1; am L 1990, c 131, §2; am L 1995, c 24, §1]

" **[§286-53.1] Boat dealers; trailers without plates.**

Notwithstanding any other law to the contrary, a manufacturer of or a dealer in boats having an established place of business in the State may move a boat trailer without license number plates upon the public highways during the initial continuous movement of the boat trailer and any boat being transported on the trailer from its point of entry into the State to a storage, display, or sales area selected by the manufacturer or dealer. [L 1980, c 28, §1]

" **[§286-53.5] Permanent registration of fleet vehicles.** (a)

Notwithstanding any other law to the contrary, the registered owner or lessee of a fleet of twenty-five or more vehicles consisting of commercial motor vehicles, commercial trailers, or passenger automobiles may apply to the director of finance of the county in which the vehicles are to be operated, for permanent license plates, decals, and registration cards; provided that the vehicle shall not be registered in any other state.

(b) The application for initial issuance of permanent registration shall be filed in such form as the director of finance shall require. Upon initial application and payment of the required fees, the director of finance shall issue a distinguishing license plate or decal which indicates the vehicle has been registered under this section.

(c) Upon submission of the renewal of registration form and payment of normally required fees, the license plates, decals, and registration cards issued pursuant to this section for the vehicle shall remain valid; provided that a fleet vehicle registered under this section may be deleted from such identified fleet upon notification of the director of finance by the registered owner on the proper form, and if the distinguishing license plates, decals, and registration cards issued for the vehicle are surrendered. Failure to comply with

the preceding sentence shall require payment by the fleet owner of fees due for registration of the vehicle as though the vehicle remained part of the fleet. Display of the distinguishing license plate or decal and registration card shall constitute prima facie evidence that the vehicle is currently registered.

The registered owner or lessee of any vehicle registered pursuant to this section shall display in a conspicuous place on both the right and the left side of each vehicle, the name, trademark, or logo of the company. The display of the name, trademark, or logo shall be printed in sharp contrast to the background of the vehicle and shall be of such size, shape, and color as to be readily identifiable during daylight hours from a distance of fifty feet.

(d) Each director of finance shall adopt rules pursuant to chapter 91 for the application, payment of fees, fleet additions or deletions, and cancellation of distinguishing plates or decals and registration card issued to a vehicle of a fleet owner. [L 1980, c 127, pt of §1]

" **[\$286-53.6] Fleet vehicles, fees.** Renewal fees for permanent registration of fleet vehicles pursuant to section 286-53.5 shall be paid pursuant to a schedule which shall be established by the director of finance. The fees determined to be due and owing under this section and section 286-53.5 shall be a lien upon all vehicles of the applicant subject to registration under this chapter, whether or not they are fleet vehicles. [L 1980, c 127, pt of §1]

" **§286-54 Out-of-state vehicle permit.** The owner of a motor vehicle which has been duly registered for the current year in another state or country and in accordance with the laws thereof, may, in lieu of registering the vehicle as otherwise required by this part, apply to the director of finance for the registration thereof as provided in this section.

The owner shall, within thirty days after commencing to operate the vehicle or causing or permitting it to be operated within the State, apply to the director of finance for the registration thereof upon the appropriate official form stating therein the name and home address of the owner and the temporary address, if any, of the owner while within the State, the registration number of the vehicle as assigned thereto by the state or country, together with a description of the motor vehicle that may be called for in the form and other statements of facts that may be required by the director of finance.

The director of finance shall file every application received and register the vehicle therein described and shall



issue to the owner a registration certificate of a distinctive form containing the date of its issue, a brief description of the vehicle, and a statement that the owner has procured registration of the vehicle.

No owner of a motor vehicle which has been duly registered for the current year in another state or country shall operate any vehicle or cause or permit to be operated upon the public highways, either before or while it is registered under this section, unless there is at all times displayed thereon the current registration number plates assigned to the vehicle by the other state or country, nor unless the certificate of registration is kept within the vehicle for which it is registered, or in the event the vehicle is a motorcycle, carry the certificate of registration in a convenient receptacle attached to the vehicle. The director of finance shall also furnish the owner with an emblem bearing a serial number with the words "VEHICLE PERMIT" and the date of expiration of the emblem to be placed on the rear bumper in plain sight of the vehicle, or when issued to a motorcycle emblem to be placed on rear fender.

Every certificate of registration issued pursuant to this section shall be valid for the unexpired portion of the current license number plates assigned to the vehicle in accordance with the law of the other state or country; provided that in no case shall a certificate be issued to exceed a twelve-month period.

Whenever a vehicle is registered under this section, the sum of \$5 shall be assessed against the owner of the vehicle to defray the administrative costs incurred by the county. Subsequent changes in the amount of the administrative costs shall be established by the county's legislative body. [L 1929, c 197, §10; RL 1935, §2673; RL 1945, §7344; RL 1955, §160-12; am L 1963, c 23, §1; am L 1967, c 59, §1; HRS §286-54; am L 1971, c 67, §1; am L 1982, c 172, §1; gen ch 1985; am L 1988, c 312, §1; am L 1998, c 98, §2]

" **§286-55 Certificates lost or mutilated.** If any certificate of registration or certificate of ownership is lost, mutilated, or becomes illegible, the person to whom the same has been issued shall immediately make application for and may obtain a duplicate thereof upon furnishing satisfactory information to the director of finance and upon payment of a fee, which fee shall be established by the county's legislative body.

When a certificate of ownership is lost, damaged, mutilated or stolen, the director of finance shall provide to a qualified applicant an application form for a duplicate certificate of ownership. The names and addresses of the transferor and

transferee shall be written in the application form and the same, together with the last issued certificate of registration, the fee for the duplicate certificate of ownership, plus the transfer fee, shall be filed with the director of finance. [L 1929, c 197, §11; RL 1935, §2674; RL 1945, §7345; am L 1955, c 162, §1; RL 1955, §160-13; HRS §286-55; am L 1970, c 73, §1(d); am L 1981, c 44, §3]

" **§286-56 Official cars.** All motor vehicles owned by any foreign government or by a consul or other official representative thereof, or by the United States government, or by the State or any political subdivision thereof, shall be registered as herein required by the person having the custody thereof, and the custodian shall display official registration by distinguishing marks thereon which shall be furnished by the director of finance, free of charge, and where motor vehicles are owned by the State or any of its municipal subdivisions, the motor vehicle shall bear the inscription provided for in sections 105-6 to 105-8. [L 1929, c 197, §14; RL 1935, §2675; RL 1945, §7346; RL 1955, §160-14; HRS §286-56; am L 1986, c 339, §30; am L 2008, c 16, §11]

#### Revision Note

"Director of finance" substituted for "treasurer" to conform to county charters.

" **§286-56.5 Special license plates for consul or official representative of foreign or territorial government.** Notwithstanding any other law to the contrary, any consul or official representative of a foreign government or territory of the United States of America, duly licensed and holding an exequatur issued by the Department of State of the United States of America, may be furnished at no cost special license plates by the director of finance on such conditions as may be necessary on a vehicle used on official consular business, provided that upon application for special license plates a consul or official representative shall be given the option of using license plates issued by the consul's or official representative's government. Before such plates shall be considered as special license plates, they shall be registered and the appropriate fees paid to the county for the issuance. The special license plates shall be securely fastened to the vehicle in lieu of the regulation number plates; provided that the tag or emblem, issued each year, shall be affixed to the special license plates in the manner provided for in section 249-7. Whenever the consul or official representative transfers

or assigns the consul's or official representative's interest in or title in the vehicle to which the special license plates were issued, the consul or official representative shall immediately surrender the special license plates to the director of finance. [L 1971, c 189, §1; am L 1979, c 141, §1; am L 1980, c 232, §12; am L 1981, c 82, §19; gen ch 1985]

" **§286-57 Unlawful removal of motor vehicles from State.**

(a) It shall be unlawful for any person to remove, attempt to remove, cause to be removed, or assist in so doing, any motor vehicle registered pursuant to this part from the State to any other place away from the State, unless the person is the legal owner of the vehicle or has first obtained written authorization from the legal owner of the vehicle.

(b) No person owning or having control of any vessel, airplane, or other means of transportation, and no agent or employee of the person, shall transport any vehicle from the State to any other place away from the State, or accept any vehicle for the transportation, or deliver any bill of lading, order, or other written instrument authorizing the transportation, unless the person requesting the transportation:

- (1) Produces a certificate of ownership and a current certificate of registration showing that the person is the legal owner of the vehicle; or
- (2) Produces, if the person is not the legal owner of the vehicle, a current certificate of registration showing that the person is the registered owner of the vehicle and, in addition, obtains the written consent of the legal owner of the vehicle to the transportation.

(c) No person owning or having control of any vessel, airplane, or other means of transportation, and no agent or employee of the person, shall transport any used vehicle between the counties or from the State to any other place away from the State, unless, in addition to any other requirements, the person records by physical inspection the vehicle identification number (VIN) of the vehicle and maintains a record of the transporting of the vehicle along with the description and vehicle identification number (VIN) for a period of not less than three years.

(d) This section shall not apply to any motor vehicle rental company as defined in section 431:9A-141 that periodically ships in quantities of ten vehicles or more.

(e) Records maintained as required above, and all other records and receipts relating to the exportation of vehicles shall be available for inspection by the federal, state, or county police agencies during normal business hours. [L 1935, c 106, §1; RL 1945, §7347; am L 1951, c 162, §7; RL 1955, §160-15;

HRS §286-57; am L 1969, c 246, §1; am L 1977, c 142, §1; gen ch 1985; am L 2003, c 26, §2]

### **Cross References**

Inter-island shipping of vehicles, see §286-271.

" **§286-58 Appeal from finance director's decision.** Whenever any person is aggrieved by any decision of any county director of finance under this part, the person may appeal from the decision of the director of finance to the district court of the circuit in which the county is situated, by filing with the court, within twenty days after the decision, or within such additional time as may have been consented to in writing by the director of finance, an informal notice of appeal setting forth the name of the appellant, the circumstances attending the decision, a general statement as to the ruling appealed from, the date of the decision, and a description of the motor vehicle involved, with the serial or motor number or both, if available. A copy of the notice shall be served upon, or mailed, postage prepaid, by registered mail with request for return receipt, to the director of finance within two days after the date of the filing with the court. Informalities in the notice shall not invalidate the notice, and the notice may be amended for good cause shown to the satisfaction of the court. [L 1951, c 237, §1; RL 1955, §160-16; HRS §286-58; am L 1970, c 188, §40]

### **Revision Note**

"Director of finance" substituted for "treasurer" to conform to county charters.

### **Cross References**

Notice by certified mail, see §1-28.

" **§286-59 Appeal; procedure.** Upon appeal, the district court shall hold a hearing de novo, and shall have power to enter such judgment or order as in its reasonable judgment may be warranted by all of the circumstances. In making the judgment or order, the court may waive defects or irregularities in the current or previous registrations which, in its opinion, have been satisfactorily explained on the part of the appellant, or may order registration of the vehicle subject to reasonable conditions to be then or thereafter, within a reasonable time fixed by the court, complied with by the appellant, upon noncompliance with which conditions the director of finance may

cancel such registration. The conditions may include the furnishing of a bond in a reasonable amount, to be fixed by the court, to insure compliance with other conditions or to indemnify the director of finance and any other person in the event it is thereafter held or found that the registration was wrongful. Any certificate of registration issued subject to any such condition shall bear thereon an appropriate notation referring to the condition or the words "conditional registration". A copy of the court's order as to the conditional registration shall be served upon the director of finance and retained in the file relating to the registration, and shall constitute notice to the world of the condition therein stated, provided the certificate of registration contains a notation of conditional registration as hereinabove provided. [L 1951, c 237, §2; RL 1955, §160-17; HRS §286-59; am L 1970, c 188, §39]

#### **Revision Note**

"Director of finance" substituted for "treasurer" to conform to county charters.

" **§286-60 Rules of procedure; costs; appeal.** The supreme court may prescribe rules of procedure relating to the appeals and hearings before the district courts. An appeal shall lie from the judgment or order of the district court to the intermediate appellate court, subject to chapter 602. The rules shall provide for informal procedure and for minimizing expense and delay to litigants therein. The costs upon such appeal to the district court shall be \$1, which may be waived by the court for good cause shown. No costs shall be chargeable against the county director of finance. [L 1951, c 237, §3; RL 1955, §160-18; HRS §286-60; am L 1973, c 135, §1; am L 2004, c 202, §36; am L 2006, c 94, §1; am L 2010, c 109, §1]

#### **Rules of Court**

Appeals, see Hawaii Rules of Appellate Procedure.

" **§286-61 Penalty.** Any person who violates sections 286-41, 286-42, 286-44.5 to 286-56.5, and 286-58 to 286-60 shall be fined not less than \$5 nor more than \$1,000; provided that any corporate owner of a motor vehicle who fails to register a motor vehicle as required by section 286-41(a) following a transfer of the vehicle between counties shall be fined \$1,000 for each violation. Any person who violates section 286-43, 286-44, or 286-57 shall be fined not less than \$5 and not more than \$1,000

or imprisoned not more than one year, or both. [L 1929, c 197, §15; RL 1935, §2676; RL 1945, §7348; RL 1955, §160-19; am L 1967, c 214, §6; HRS §286-61; am L 1987, c 171, §3; am L 1993, c 214, §4]

### Case Notes

Refusal to deliver certificate of ownership to transferee entitled thereto, is misdemeanor. 38 H. 178.

Cited: 38 H. 53, 62.

" **§286-62 Special license plates authorized.** Any owner of a passenger motor vehicle, who is a resident of the State, and who holds an unrevoked and unexpired amateur radio station license, other than novice, issued by the Federal Communications Commission, upon application, accompanied by proof of ownership of the amateur radio station license, may be issued a special license plate for the owner's passenger motor vehicle as provided in sections 286-63 to 286-69. [L 1955, c 67, §1; RL 1955, §160-220; HRS §286-62; am L 1969, c 189, §1; gen ch 1985]

" **§286-63 Shape, size and color of plates; how affixed.** The special license plate shall be similar in shape, size and color to the regulation passenger motor vehicle number plate prescribed by law, and shall bear the official amateur radio call letters of the applicant, as assigned by the Federal Communications Commission. The special license plate shall be securely fastened to the passenger motor vehicle in lieu of the regulation number plate; provided that the regulation tag or emblem issued each year shall be affixed to the passenger motor vehicle or the special license plate in the manner provided in section 249-7. [L 1955, c 67, §2; RL 1955, §160-221; HRS §286-63; am L 1969, c 189, §2]

" **§286-64 Regulation plates to be surrendered.** Upon the issuance of the special license plates, the regulation number plates originally issued in the registration of the passenger motor vehicles shall be surrendered to the administrator of the county emergency management agency who shall retain the plates as long as the special license plates are attached to the passenger motor vehicle. [L 1955, c 67, §3; RL 1955, §160-222; HRS §286-64; am L 1969, c 189, §3; am L 2014, c 111, §28]

" **§286-65 Surrender, transfer, and disposal of special plates.** Upon the transfer of ownership of the passenger motor vehicle, or upon the expiration or revocation of the amateur radio station license, the holder of the special license plates

shall surrender them to the administrator of the county emergency management agency who shall retain the plates as long as they are valid. The regulation number plates shall be securely fastened to the passenger motor vehicle as provided in section 249-7. Upon reapplication, an amateur radio station licensee may be reissued the licensee's special license plates as provided in this part at no additional cost. [L 1955, c 67, §4; RL 1955, §160-223; HRS §286-65; am L 1969, c 189, §4; gen ch 1985; am L 1986, c 339, §31; am L 2014, c 111, §28]

" **§286-66 Director in charge.** The director of [Hawaii] emergency management shall be responsible for processing all applications for the special license plates and shall make all necessary arrangements for the purchase and issuance thereof.

The administrator of the county emergency management agency shall assist the director of [Hawaii] emergency management in the administration of this part, which includes but is not limited to, the receipt of applications, the collection and payment of fees, the issuance of special license plates, the transmittal of the list of special license plates issued together with the names and addresses to whom issued to the director of [Hawaii] emergency management and the respective chief of police and the respective licensing officer of each county, and any other duties as may be prescribed by the director of [Hawaii] emergency management. The chief of police and licensing officer of each county shall keep a record of the list of special license plates issued together with the names and addresses to whom issued in their respective office and may discard the list when it is more than six years old. [L 1955, c 67, §5; RL 1955, §160-224; HRS §286-66; am L 1969, c 189, §5; am L 2014, c 111, §28]

" **§286-67 Fees.** Any applicant applying for the special license plates shall pay to the administrator of the county emergency management agency an amount equal to the cost of the plates plus administrative costs of furnishing the special license plates. The fees for the special license plates shall be determined by the director of [Hawaii] emergency management. [L 1955, c 67, §6; RL 1955, §160-225; HRS §286-67; am L 1969, c 189, §6; am L 2014, c 111, §28]

" **§286-68 Interpretation of part.** Sections 286-62 to 286-69 are supplementary to any statute of the State regarding automobile number or license plates and nothing herein shall be construed as abridging or amending such laws except as herein provided for the use of the special license plates in lieu of

the regulation number plates prescribed by law. [L 1955, c 67, §7; RL 1955, §160-226; HRS §286-68; ree L 1986, c 339, §32]

" **§286-69 Penalty.** Any person who violates any provisions of sections 286-62 to 286-68 shall be fined not more than \$50. [L 1955, c 67, §8; RL 1955, §160-227; am L 1967, c 214, §14; HRS §286-69]

#### "PART IV. SAFETY EQUIPMENT

##### Cross References

Neighborhood electric vehicles, see §291C-134.

Street rod vehicle requirements, see §286-26.5.

**§286-81 Motorcycle, motor scooter, etc.; protective devices.** (a) No person shall:

- (1) Operate a motorcycle or motor scooter, on any highway in the State unless the person and any passenger the person carries on the motorcycle or motor scooter wears:
  - (A) Safety glasses, goggles, or a face shield, in the case of a motorcycle or motor scooter that is not equipped with windscreens or windshields; and
  - (B) Any other protective devices, other than a safety helmet, required by rules adopted by the director.

For the purpose of meeting the requirements of this paragraph, a required device shall meet the specifications and requirements established by rules adopted by the director;

- (2) Lease or rent a motorcycle or motor scooter to another person unless the person furnishes:
  - (A) Safety glasses, goggles, or a face shield, in the case of a motorcycle or motor scooter that is not equipped with windscreens or windshields; and
  - (B) Any other protective devices required by the rules adopted by the director for the use of the person or persons intending to operate or ride as a passenger on the motorcycle or motor scooter; provided that any person to whom a motorcycle or motor scooter is leased or rented may furnish for the person's own use the protective devices required by this part.

For the purposes of meeting the requirements of this paragraph, a required device shall meet the



specifications and requirements established by rules adopted by the director; or

- (3) Sell or offer for sale or furnish any safety helmet, safety glasses, goggles, face shield, windscreen, windshield, or other protective devices represented to meet the requirements of this part unless the device meets the specifications and requirements established by rules adopted by the director.

(b) No person less than eighteen years of age shall operate or ride as a passenger on a motorcycle or motor scooter on any highway in the State unless the person wears a safety helmet securely fastened with a chin strap.

(c) A safety helmet shall not be required for any person who operates or rides as a passenger on a motorcycle or motor scooter; provided that the motorcycle or motor scooter:

- (1) Has three wheels;
- (2) Is powered by an electric motor;
- (3) Has a full body enclosed cab; and
- (4) Has a seat belt assembly or a child restraint system for the driver and passenger;

and the operator and passenger uses the seat belt or child restraint system pursuant to sections 291-11.5 and 291-11.6. [L 1967, c 214, pt of §2; HRS §286-81; am L 1968, c 48, §2(d); am L 1977, c 183, §1; am L Sp 1977 1st, c 20, §12; gen ch 1985; am L 1994, c 120, §2]

#### **Cross References**

Additional prohibitions regarding minors, see §291-11.  
Rulemaking, see chapter 91.

" **§286-82 Penalty.** Whoever violates this part shall be fined not more than \$1,000. [L 1967, c 214, pt of §2; HRS §286-82; am L 1993, c 214, §5]

" **§286-83 Sales of motor vehicle equipment; approval and identification required; prohibitions on use.** (a) On and after January 1, 1972, no person shall display for sale, sell, or offer for sale for use in or upon, or as part of the equipment of a motor vehicle, trailer, semitrailer, or pole trailer any head lamp, auxiliary or fog lamp, rear lamp, signal lamps, or reflector, which reflector is required by law, or any glazing material, hydraulic brake fluid, or seat belt assembly as defined in section 291-11.6, unless the device is of a type that has been submitted to the director of transportation and approved by the director. This subsection shall not apply to equipment in actual use on May 25, 1971, or replacement parts

therefor, except seat belt assemblies required under section 286-26.5(d).

(b) No person shall display for sale, sell or offer for sale for use in, upon, or as part of the equipment of a motor vehicle, trailer, semitrailer, or pole trailer any device mentioned in this section unless the device bears thereon or, where applicable, upon the container in which it is sold, the trademark or name under which it is approved so as to be legible when installed.

(c) No person shall use in or upon a motor vehicle, trailer, semitrailer, or pole trailer any device mentioned in this section unless the device has been submitted to and approved by the director of transportation, or exempted by subsection (a). [L 1971, c 110, pt of §3; am L 1977, c 13, §1; am L Sp 1977 1st, c 20, §12; gen ch 1985; am L 2004, c 126, §3]

" **§286-84 Revocation of approval.** When the director of transportation has reason to believe that a device approved under section 286-83 as being sold commercially does not comply with the requirements of section 286-83, the director may, after giving thirty days' previous notice to the person who has received the approval for the device in this State, conduct a hearing upon the question of compliance of the approved device. After the hearing the director shall determine whether the approved device meets the requirements of section 286-83. If the device does not meet the requirements of section 286-83, the director shall give notice to the person who has received the approval for the device in this State.

If at the expiration of ninety days after such notice, the person who has received the approval for the device has failed to satisfy the director that the device as thereafter to be sold meets the requirements of section 286-83, the director shall suspend or revoke the approval issued therefor until or unless the device is resubmitted to and retested by an authorized testing agency and is found to meet the requirements of section 286-83, and may require that all such devices sold since the notification following the hearing be replaced with devices that do comply with the requirements of section 286-83. The director may at the time of retest purchase in the open market and submit to the testing agency one or more sets of such approval devices, and if such device upon retest fails to meet the requirements of section 286-83, the director may refuse to renew the approval of the device. [L 1971, c 110, pt of §3; am L Sp 1977 1st, c 20, §12; gen ch 1985]

" **§286-85 Reconstructed vehicles, approval required.** (a) No person shall operate a reconstructed vehicle upon a public

highway unless it has been inspected and certified by the designated county agency as meeting the specifications and requirements established in rules and regulations adopted by the state director of transportation.

(b) This section shall not apply to any vehicle which is subject to the rules and regulations of the public utilities commission governing safety of operation and equipment.

(c) Each county through its chief executive officer, shall designate a county department, whose responsibilities shall include the inspection of reconstructed vehicles and the issuance of permits to operate reconstructed vehicles pursuant to standards established by the state director of transportation.

(d) The state director of transportation shall adopt rules pursuant to chapter 91, establishing the fees an inspector may charge for the inspection of a reconstructed vehicle.

(e) The department designated pursuant to subsection (c) shall identify to the county director of finance every vehicle that has been inspected and approved as a reconstructed vehicle.

(f) This section shall not apply to any privately owned reconstructed vehicle in a county with a population of less than 500,000. [L 1977, c 77, §2; am L Sp 1977 1st, c 20, §12; am L 1986, c 122, §1]

#### **Revision Note**

In subsection (e), "director of finance" substituted for "treasurer" to conform to county charters.

#### **Case Notes**

Where Hawaii county did not require posting of reconstructed vehicle permit decal on vehicle and no evidence that defendant actually operated vehicle, officer's suspicion that defendant operated a reconstructed vehicle without a valid permit was not reasonable; thus, evidence of DUI and no reconstruction permit was illegally obtained through an unconstitutional warrantless seizure. 87 H. 487 (App.), 960 P.2d 157.

#### **"PART V. DRIVER TRAINING SCHOOL AND DRIVING INSTRUCTORS--REPEALED**

**§§286-91 to 97 REPEALED. L 1996, c 67, §4.**

#### **"PART VI. MOTOR VEHICLE DRIVER LICENSING**

#### **Revision Note**

The amendments made to this part by L 2012, c 310, §§2 (enacting subpart B), 5 (amending the part VI title), 6 (adding a subpart A title), and 8 (amending §§286-101, 286-102(e), 286-104, 286-106, 286-107(c), 286-108(a), 286-110(a), 286-112(a) and (c), 286-113, 286-114, and 286-122(a) to change "part" to "subpart") are omitted as the new subpart B added to this part was renumbered as part XVI pursuant to §23G-15.

### **Cross References**

Civil identification cards, see §§286-301 to 286-313, part XVI.

### **Law Journals and Reviews**

Intextication: Txting Whl Drvng. Does the Punishment Fit the Crime? 32 UH L. Rev. 359 (2010).

**§286-101 Designation of examiner of drivers.** The chief executive of each county shall designate one or more persons, residing in the county, each of whom shall be a competent operator of motor vehicles, to be known as the examiner of drivers, and whose duty it shall be to examine into the qualifications and fitness of any person desiring to secure or to renew a license to operate a motor vehicle as provided in this part. [L 1937, c 234, pt of §1; am L 1939, c 104, §7; am L 1943, c 62, §21 and c 64, §22; RL 1945, pt of §7301; RL 1955, §160-31; HRS §286-101; am L 1969, c 128, §1(1); am L 1970, c 152, §1 and c 164, §3]

" **[\$286-101.5] Reciprocal licensing privileges.** (a) The director may grant reciprocal licensing privileges to any person eighteen years of age or older who holds a license from another country or state, thereby allowing the examiner of drivers to waive examination requirements under section 286-108(c)(3), if:

- (1) That jurisdiction has procedures in place to verify the validity of the driver's licenses it issues;
- (2) That jurisdiction has granted a waiver of all or any part of the driver's license examination requirements for Hawaii licensed drivers applying for a driver's license in that jurisdiction; and
- (3) The director determines that the standards of that jurisdiction for licensing operators of motor vehicles correspond substantially to those of this State.

(b) The director shall publish on the department of transportation's public internet site a list of the countries for which reciprocal operating privileges have been extended and those that have been withdrawn. The most recent list shall be transmitted to the courts, county prosecuting attorneys, and county police chiefs.

(c) The director may require an applicant for reciprocal licensing privileges to provide translation of the license and documents from the other jurisdiction if the license and documents are in languages other than Hawaiian or English.

(d) The director may adopt rules pursuant to chapter 91 necessary for the purposes of this section. [L 2015, c 131, §2]

" **§286-102 Licensing.** (a) No person, except one:

- (1) Exempted under section 286-105;
- (2) Who holds an instruction permit under section 286-110;
- (3) Who holds a limited purpose driver's license, limited purpose provisional driver's license, or limited purpose instruction permit under section 286-104.5;
- (4) Who holds a provisional license under section 286-102.6;
- (5) Who holds a commercial driver's license issued under section 286-239; or
- (6) Who holds a commercial driver's license instruction permit issued under section 286-236,

shall operate any category of motor vehicles listed in this section without first being appropriately examined and duly licensed as a qualified driver of that category of motor vehicles.

(b) A person operating the following category or combination of categories of motor vehicles shall be examined as provided in section 286-108 and duly licensed by the examiner of drivers:

- (1) Mopeds;
- (2) Motorcycles and motor scooters;
- (3) Passenger cars of any gross vehicle weight rating, buses designed to transport fifteen or fewer occupants, and trucks and vans having a gross vehicle weight rating of eighteen thousand pounds or less; and
- (4) All of the motor vehicles in category (3) and any vehicle that is not a commercial motor vehicle.

A school bus or van operator shall be properly licensed to operate the category of vehicles that the operator operates as a school bus or van and shall comply with the standards of the department of transportation as provided by rules adopted pursuant to section 286-181.

(c) No person shall receive a driver's license without surrendering to the examiner of drivers all valid driver's licenses and all valid identification cards in the person's possession. All licenses and identification cards so surrendered shall be shredded; provided that with the exception of driver's licenses issued by any Canadian province, a foreign driver's license may be returned to the owner after being invalidated pursuant to issuance of a Hawaii license; provided further that the examiner of drivers shall notify the authority that issued the foreign license that the license has been invalidated and returned because the owner is now licensed in this State; and provided further that all commercial driver's licenses that are surrendered shall be shredded. No person shall be permitted to hold more than one valid driver's license at any time.

(d) Before issuing a driver's license, the examiner of drivers shall complete a check of the applicant's driving record to determine whether the applicant is subject to any disqualification under section 286-240, or any license suspension, revocation, or cancellation, and whether the applicant has a driver's license from more than one state or jurisdiction. The record check shall include but is not limited to the following:

- (1) A check of the applicant's driving record as maintained by the applicant's state or jurisdiction of licensure;
- (2) A check with the commercial driver license information system;
- (3) A check with the National Driver Register; and
- (4) If the driver is renewing a commercial driver's license for the first time after September 30, 2002, a request for the applicant's complete driving record from all states where the applicant was previously licensed to drive any motor vehicle over the last ten years; provided that a notation is made on the driving record confirming the check has been made and the date it was done.

(e) Notwithstanding sections 291E-61.6 and [291E-44.5], in addition to other qualifications and conditions by or pursuant to this part, the right of an individual to hold a motor vehicle operator's license or permit issued by the county is subject to the requirements of section 576D-13.

Upon receipt of certification from the child support enforcement agency pursuant to section 576D-13 that an obligor or individual who owns or operates a motor vehicle is not in compliance with an order of support as defined in section 576D-1 or has failed to comply with a subpoena or warrant relating to a

paternity or child support proceeding, the examiner of drivers shall suspend the license and right to operate motor vehicles and confiscate the license of the obligor. The examiner of drivers shall not reinstate an obligor's or individual's license until the child support enforcement agency, the office of child support hearings, or the family court issues an authorization that states the obligor or individual is in compliance with an order of support or has complied with a subpoena or warrant relating to a paternity or child support hearing.

The licensing authority may adopt rules pursuant to chapter 91 to implement and enforce the requirements of this section. [L 1967, c 214, pt of §2; HRS §286-102; am L 1970, c 164, §1(1) and §3; am L 1971, c 127, §1; am L 1972, c 2, pt of §6; am L 1973, c 152, §1(b) and c 214, §1; am L 1974, c 80, §1; am L 1976, c 5, §1 and c 53, §1; am L 1979, c 85, §1; am L 1984, c 169, §1; gen ch 1985; am L 1989, c 320, §4; am L 1990, c 342, §18; am L 1991, c 67, §1; am L 1992, c 76, §1; am L 1997, c 54, §1 and c 293, §12; am L 1999, c 261, §2; am L 2002, c 37, §1; am L 2004, c 103, §2; am L 2005, c 72, §§2, 15; am L 2010, c 16, §1 and c 85, §2; am L 2012, c 10, §1, c 310, §7, and c 327, §5; am L 2013, c 114, §2; am L 2015, c 131, §3 and c 172, §3]

#### **Cross References**

Reciprocal licensing privileges, see §286-101.5.

#### **Attorney General Opinions**

Nonresident serviceman with home-state license must comply with section and is not exempted therefrom by the Soldier's and Sailor's Civil Relief Act. Att. Gen. Op. 68-24.

Person already qualified for each type of vehicle in applicable category need not take additional exam for categories 8 to 10. Renewal of category 7 license does not automatically qualify one for category 10 license. Att. Gen. Op. 75-24.

#### **Case Notes**

Magistrate did not improperly use prior uncounseled misdemeanor convictions in sentencing defendants for conviction of operating car without driver's license in violation of Assimilative Crimes Act. 957 F.2d 714.

Statute applied to defendant, where defendant argued that traffic statutes involved only applied to businesses and state vehicles; statute did not violate defendant's freedom of movement. 77 H. 222 (App.), 883 P.2d 644.

Driving without license under this section not lesser included offense of driving while license suspended under §286-132. 81 H. 76 (App.), 912 P.2d 573.

Trial court erred when it limited the applicability of this section only to persons operating motor vehicles on public highways; section also applied to defendant who was operating a vehicle in the parking lot of a private hotel. 94 H. 354 (App.), 14 P.3d 364.

" **[§286-102.3] Commercial drivers under the age of twenty-one.** A person is qualified to drive commercially in the State in intrastate commerce if the person:

- (1) Is at least nineteen years of age;
- (2) Is in compliance with title 49 Code of Federal Regulations, part 390-396, subpart B, except section 391.11(b)(1) in the case of an intrastate driver involved in intrastate commerce in the State;
- (3) Only operates a category 3 vehicle as defined in section 286-102(b)(3);
- (4) Shall not transport hazardous materials as defined in section 286-2, nor passengers in a school vehicle as defined in section 286-181; and
- (5) Has had a category 3 state driver's license for the two years immediately preceding driving commercially under this section, with the following conditions:
  - (A) Has not had any license suspended, revoked, or canceled; and
  - (B) Has not had any conviction for:
    - (i) Speeding excessively involving any speed of fifteen miles per hour or more above the speed limit;
    - (ii) Driving recklessly, as defined by state or local law or regulation, including but not limited to offenses of driving a motor vehicle in wilful or wanton disregard for the safety of person or property;
    - (iii) Making improper or erratic traffic lane changes;
    - (iv) Following the vehicle ahead too closely; or
    - (v) Violating state or local law relating to motor vehicle traffic control, excluding parking violations, arising in connection with a fatal accident. [L 2007, c 288, §1]

#### **Revision Note**

This section was renumbered from §286-236.5.



" **[§286-102.5] Military Selective Service Act; Selective Service System registration.** (a) Qualified applicants for a motor vehicle [driver's] license pursuant to section 286-107 or 286-108 or an instruction permit pursuant to section 286-110 shall be registered with the United States Selective Service System in compliance with Title 50 United States Code Appendix section 453, as amended.

(b) Every qualified applicant identified in subsection (a) shall be required to authorize the examiner of drivers to:

- (1) Collect the necessary personal information required for registering the qualified applicant with the United States Selective Service System; and
- (2) Electronically transmit the information to the Selective Service System pursuant to subsection (d) for purposes of registering the qualified applicant with the United States Selective Service System.

(c) The examiner of drivers shall notify all qualified applicants identified in subsection (a) that by submitting an application, the qualified applicant is consenting to registration with the United States Selective Service System, if so required by federal law.

(d) The examiner of drivers shall collect from a qualified applicant the necessary personal information required for registering the qualified applicant with the United States Selective Service System. The examiner of drivers shall transmit the necessary personal information of the qualified applicant in an electronic format to the United States Selective Service System to register the qualified applicant.

(e) For purposes of this section, "qualified applicant" means male United States citizens and immigrants at least eighteen years of age but less than twenty-six years of age. [L 2001, c 86, §2]

" **§286-102.6 Provisional license for persons under the age of eighteen.** (a) A person may be granted a provisional license to drive passenger cars of any gross vehicle weight rating, buses designed to transport fifteen or fewer occupants, and trucks and vans having a gross vehicle weight rating of fifteen thousand pounds or less if the person:

- (1) Is at least sixteen years of age but under the age of eighteen;
- (2) Holds an instruction permit and has held the permit for a period of at least one hundred eighty days and there is no pending proceeding that might result in the suspension or revocation of the instruction permit; and

(3) Satisfactorily completes all requirements of sections 286-108 and 286-109.

(b) The provisional license shall entitle the provisional licensee to drive the class of motor vehicles specified in subsection (a) upon the roadways of the State; provided that:

- (1) The provisional licensee shall have the provisional license in the provisional licensee's immediate possession while driving;
- (2) All occupants of the motor vehicle shall be restrained by safety belts or a child passenger restraint system as required under sections 291-11.5 and 291-11.6;
- (3) The provisional licensee shall not transport more than one person under the age of eighteen, unless the person is, with respect to the provisional licensee:
  - (A) A household member; or
  - (B) A household member's foster or hanai child, without being accompanied and supervised by a licensed driver who is the provisional licensee's parent or guardian; and
- (4) Except as provided in subsection (c), whenever the provisional licensee is driving between the hours of 11:00 p.m. and 5:00 a.m., a licensed driver who is the provisional licensee's parent or guardian and is licensed to operate the same category of motor vehicle as the licensee, shall be in the motor vehicle and shall occupy the passenger seat beside the licensee.

(c) A provisional licensee may drive between the hours of 11:00 p.m. and 5:00 a.m. without a licensed parent or guardian in the motor vehicle under the following conditions:

- (1) The provisional licensee is traveling to or from the provisional licensee's place of employment, operation of the motor vehicle is necessary for this purpose, and the provisional licensee keeps in the provisional licensee's possession a signed statement from the employer containing the employer's name, address, telephone number, and verification of employment and work hours; or
- (2) The provisional licensee is traveling to or from a school-authorized activity of the provisional licensee, operation of a motor vehicle is necessary for this purpose, and the provisional licensee keeps in the provisional licensee's possession a signed statement from a parent or guardian containing the parent's or guardian's name, address, and telephone number, and verification that operation of the motor vehicle by the provisional licensee is necessary to travel to or from the school-authorized activity;

provided that the provisional licensee shall not transport more than one person under the age of eighteen between the hours of 11:00 p.m. and 5:00 a.m. without being accompanied and supervised by a licensed driver who is the provisional licensee's parent or guardian.

(d) If the provisional licensee violates any of the requirements of subsection (b) or (c):

(1) For a first violation of any requirement, the provisional license shall be suspended for a period of three months by a district court or family court judge. If the person's provisional license is suspended, the person shall not be eligible for reissuance of the provisional license or issuance of a driver's license until:

(A) The person is eighteen years of age; or

(B) Three months have elapsed since the date of suspension,

whichever is sooner, and the person has otherwise satisfied the requirements of this chapter; and

(2) For a second or any subsequent violation of any requirement, the provisional license shall be revoked for six months by a district court or family court judge. If the person's provisional license is revoked, the person shall not be eligible for reissuance of the provisional license or issuance of a driver's license until:

(A) The person is eighteen years of age; or

(B) Six months have elapsed since the date of revocation,

whichever is sooner, and the person has otherwise satisfied the requirements of this chapter.

Suspension or revocation of a provisional license pursuant to this subsection shall be exempt from proof of financial responsibility requirements under section 287-20.

(e) If the provisional licensee is adjudicated of an offense relating to the operation of a motor vehicle other than the requirements of subsection (b) or (c):

(1) For a first adjudication, the provisional license shall be suspended or revoked by a district court or family court judge, in addition to any other penalties that may be prescribed by law. If the person's provisional license is suspended or revoked, the person shall not be eligible for reissuance of the provisional license or issuance of a driver's license until:

(A) The person is eighteen years of age; or

- (B) Six months have elapsed since the date of suspension or revocation, whichever is sooner, and the person has otherwise satisfied the requirements of this chapter; and
- (2) For a second or any subsequent adjudication, the provisional license shall be revoked for one year by a district court or family court judge, in addition to any other penalties that may be prescribed by law. If the person's provisional license is revoked, the person shall not be eligible for reissuance of the provisional license or issuance of a driver's license until:
  - (A) The person is eighteen years of age; or
  - (B) One year has elapsed since the date of revocation, whichever is later, and the person has otherwise satisfied the requirements of this chapter.
- (f) A provisional licensee may be issued a driver's license in accordance with this chapter if the provisional licensee:
  - (1) Has satisfactorily held a provisional license for at least six months or has attained the age of eighteen, whichever comes first;
  - (2) Has no pending proceeding that might result in the suspension or revocation of the license;
  - (3) Is at least seventeen years of age; and
  - (4) Has satisfactorily complied with all requirements of this chapter.
- (g) If not suspended or revoked, the provisional license shall expire on the date of the provisional licensee's nineteenth birthday.
- (h) The fee for a provisional license shall be set in accordance with section 286-111.
  - (i) This section shall not apply to the licensing of:
    - (1) An emancipated minor; and
    - (2) Motorcycle or motor scooter drivers.
  - (j) For the purposes of this section, "household member" shall have the same meaning as defined in section 291E-1.
- (k) Notwithstanding any other provisions, for the purposes of this section, the district court and family court shall notify the driver's license examiner of all persons under the age of eighteen who have pending violations or proceedings that might result in the suspension or revocation of the provisional license, and any pending adjudication of an offense relating to the operation of a motor vehicle. [L 2005, c 72, §§1, 15; am L 2006, c 105, §1; am L 2007, c 74, §1; am L 2010, c 85, §§1, 2]

" **§286-103 Restrictions on driver's license; rules and regulations.** The examiner of drivers may adopt rules and regulations restricting the use of a driver's license in any manner the examiner of drivers may deem necessary for the safety and welfare of the traveling public and may impose restrictions with respect to the type of equipment or special mechanical control devices required on the motor vehicle operated by the licensee appropriate to the driving ability of the licensee. Any restrictions shall be indicated on the license issued. [L 1967, c 214, pt of §2; HRS §286-103; am L 1970, c 164, §3; gen ch 1985]

#### **Cross References**

Rulemaking, see chapter 91.

" **§286-104 Which persons shall not be licensed.** The examiner of drivers shall not issue any license to any person:

- (1) Whose license has been suspended by a court of competent jurisdiction during the suspension period, nor to any person whose license has been revoked until the expiration of one year after the date of the revocation, or until the expiration of the period of revocation specified by law, whichever is greater, except as provided under sections 286-102.6(d) and 286-102.6(e) for suspensions and revocations of a provisional license; nor to any person who, while unlicensed, has within two years been convicted of operating a vehicle under the influence of an intoxicant or, prior to January 1, 2002, of driving under the influence of alcohol or drugs;
- (2) Who is required by this part to take an examination, unless the person has successfully passed the examination;
- (3) Who is required under the motor vehicle financial responsibility laws of this State to deposit proof of financial responsibility and who has not deposited the proof;
- (4) Who the examiner of drivers has good cause to believe would not be able to operate a motor vehicle with safety upon the highways by reason of physical or mental disability;
- (5) Who is under eighteen years of age; provided that a person:
  - (A) Who is fifteen years and six months of age may be granted an instruction permit;

- (B) Who is at least sixteen and less than eighteen years of age may be granted a provisional license upon satisfying the requirements of section 286-102.6;
- (C) Who is at least seventeen and less than eighteen years of age may be granted a license upon satisfying the requirements of section 286-102.6, which license may be suspended or revoked by a judge having jurisdiction over the holder of the license. Upon revocation of the license, the person shall not be eligible to operate a motor vehicle on the highway until the person is eighteen years of age and has again satisfied the requirements of sections 286-108 and 286-109; or
- (D) Who is an emancipated minor may be granted a license upon satisfaction of all requirements of this chapter applicable to persons eighteen years of age or older;
- (6) Who is not in compliance with section 286-102.5; or
- (7) Who does not submit proof, satisfactory to the director, that the applicant's presence in the United States is authorized by federal law. The director shall adopt rules in accordance with chapter 91 that provide for standards of proof and for exemptions from this requirement.

Any person denied a license under this or any other section of this part shall have a right of appeal as provided in section 286-129. [L 1937, c 234, §4; am L 1943, c 121, §1; RL 1945, §7304; am L 1947, c 38, §1; RL 1955, §160-34; am L 1967, c 214, §8; HRS §286-104; am L 1970, c 164, §3 and c 188, §39; am L 1980, c 54, §1; am L 1985, c 258, §2; gen ch 1985; am L 1990, c 34, §15; am L 1996, c 36, §1; am L 1997, c 153, §1 and c 330, §2; am L 1999, c 175, §1; am L 2001, c 86, §3 and c 157, §6; am L 2002, c 16, §13; am L 2005, c 72, §§3, 15; am L 2010, c 38, §1 and c 85, §2]

### **Cross References**

Development of medical evaluation system and criteria, see §286-4.1(b).

Statewide driver education program and behind-the-wheel driver training program; rules, see §286-108.4.

" **[§286-104.5] Limited purpose driver's license, limited purpose provisional driver's license, and limited purpose instruction permits.** (a) Notwithstanding section 286-104(7) to the contrary, every person who submits an application for a

driver's license, provisional driver's license, or instruction permit that satisfies the requirements of this chapter except for the applicant's inability or refusal to provide satisfactory proof of authorized presence in the United States under federal law shall be issued a limited purpose driver's license, a limited purpose provisional driver's license, or a limited purpose instruction permit that is uniquely identified in compliance with the REAL ID Act of 2005 upon satisfactory proof to the examiner of drivers of the applicant's identity and residency in the State. The examiner of drivers shall accept various types of documentation for the purpose of establishing the applicant's identity and residency in the State, which may be established by more than one document. Acceptable documentation includes:

- (1) A valid, unexpired consular identification document issued by a consulate from the applicant's country of citizenship or a valid, unexpired passport from the applicant's country of citizenship;
- (2) An original birth certificate or other proof of age, as designated by the examiner of drivers;
- (3) A current home utility bill, lease, or rental agreement, or deed or title to real property in the State, as designated by the examiner of drivers;
- (4) A United States Department of Homeland Security Form I-589, Application for Asylum and for Withholding of Removal;
- (5) An official school or college transcript that includes the applicant's date of birth or a foreign school record that is sealed and includes a photograph of the applicant at the age the record was issued;
- (6) An official school or college identification card that includes the applicant's full name and a photograph of the applicant at the time the identification was issued;
- (7) A United States Department of Homeland Security Form I-20 or Form DS-2019;
- (8) A United States Customs and Immigration Services Deferred Action for Childhood Arrival Approval Letter;
- (9) A valid identification card for health benefits;
- (10) A valid identification card for an assistance or social services program;
- (11) A current voter registration card issued by the State;
- (12) A wage stub issued in the last six months;
- (13) An income tax return filed in the last two years;
- (14) A social security card;
- (15) One of the following documents which, if in a language other than English, shall be accompanied by a

certified translation or an affidavit of translation into English:

- (A) Marriage license or divorce certificate;
  - (B) Foreign federal electoral photo card issued on or after January 1, 1991;
  - (C) Foreign student identification card; or
  - (D) Foreign driver's license; or
- (16) Other proof of Hawaii residency as designated by the director.

(b) Except as otherwise provided in this subsection, every application under this section shall be made upon the form and in the manner required by section 286-111 and shall be accompanied by the fee established for non-limited purpose licenses or permits pursuant to section 286-111. The examiner of drivers shall not require any applicant under this section to furnish information regarding the applicant's eligibility or ineligibility for a social security number. The examiner shall not disclose the identity of any applicant who does not provide a social security card or social security number.

(c) Every limited purpose driver's license, limited purpose provisional driver's license, and limited purpose instruction permit issued pursuant to this section shall on its face and machine readable zone bear the phrase, "Not acceptable for official federal purposes", and on its reverse bear the phrase, "This license is issued only as a license to drive a motor vehicle. It does not establish eligibility for employment, voter registration, or public benefits", and be of a unique design or color indication that clearly distinguishes them from the State's compliant driver's licenses, provisional driver's licenses, and instruction permits. If the United States Department of Homeland Security determines that limited purpose licenses or permits issued pursuant to this section do not satisfy the requirements of title 6 Code of Federal Regulations section 37.71, adopted pursuant to section 202 of the REAL ID Act of 2005, Public Law 109-13, the examiner of drivers, under the direction of the department, shall modify the limited purpose licenses and permits issued pursuant to this section only to the extent necessary to satisfy the requirements of the federal law.

(d) Every limited purpose driver's license and limited purpose provisional driver's license shall expire in accordance with section 286-106, and every limited purpose instruction permit shall expire in accordance with section 286-110.

(e) A limited purpose driver's license or limited purpose provisional driver's license may be renewed in accordance with section 286-107 and reactivated in accordance with section



286-107.5. A limited purpose instruction permit may be renewed in accordance with section 286-110.

(f) It shall be a violation of law to discriminate against a person because the person applied for, was denied, was issued, holds, or presents a limited purpose driver's license, limited purpose provisional driver's license, or limited purpose instruction permit.

(g) A limited purpose license or limited purpose instruction permit issued pursuant to this section shall not be used to consider a person's citizenship or immigration status as a basis for a criminal investigation, arrest, or detention.

(h) Documents and information collected pursuant to an application for, denial of, or issuance of a limited purpose driver's license, limited purpose provisional driver's license, or limited purpose instruction permit shall be confidential and shall not be disclosed by the examiner of drivers or the department except as required by law.

(i) The director shall adopt rules in accordance with chapter 91 to implement this section. [L 2015, c 172, §2]

" **§286-105 What persons are exempt from license.** The following persons are exempt from license:

- (1) Any person while driving or operating a motor vehicle in the service or employ of any branch or agency of the federal government; provided that the person has received a license or permit from the branch or agency to operate and drive the motor vehicle; provided further that the branch or agency has been duly authorized by the federal government to issue the license or permit;
- (2) Any person while driving or operating any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway; provided that no person under the age of thirteen years shall be permitted to drive or operate any such road machine, farm tractor, or implement of husbandry on a highway;
- (3) Any person who is at least eighteen years of age and who has in the person's possession a valid driver's license to drive the categories of motor vehicles listed in section 286-102(b), except section 286-102(b)(4), that is equivalent to a driver's license issued in this State but was issued to the person in another state of the United States, the Commonwealth of Puerto Rico, United States Virgin Islands, American Samoa, Guam, a province of the Dominion of Canada, or the Commonwealth of the Northern Mariana Islands for

that category of motor vehicle which the person is operating;

- (4) Any person who has in the person's possession a valid commercial motor vehicle driver's license issued by any state of the United States, Mexico, or a province of the Dominion of Canada that issues licenses in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver's licenses; and
- (5) Any person who drives or operates state or county motor vehicles while employed by, in the service of, or volunteering for the state or county fire departments, provided that they are trained and certified to drive category (4) motor vehicles as set forth in section 286-102(b)(4) by the state or county government, as appropriate, and provided that the person maintains a category (3) license as set forth in section 286-102(b)(3). [L 1937, c 234, §3; RL 1945, §7303; am L Sp 1949, c 19, §3; RL 1955, §160-33; am L 1957, c 82, §1 and c 159, §1; am L 1967, c 214, §7; HRS §286-105; am L 1970, c 164, §3; am L 1971, c 127, §2; am L 1972, c 2, pt of §6; am L 1976, c 5, §2; am L 1979, c 108, §1; gen ch 1985; am L 1986, c 224, §2; am L 1989, c 320, §5; am L 1990, c 11, §1 and c 342, §19; am L 1993, c 268, §1; am L 1997, c 73, §1]

" **§286-106 Expiration of licenses.** Every driver's license issued under this part, except for a provisional license issued under section 286-102.6 which shall expire on the date of the provisional licensee's nineteenth birthday, whether an original issuance or a renewal, shall expire on the first birthday of the licensee occurring not less than eight years after the date of the issuance of the license, unless sooner revoked or suspended; provided that:

- (1) The license shall expire on the first birthday of the licensee occurring not less than four years after the date of the issuance if, at the time, the licensee is twenty-four years of age or younger;
- (2) The license shall expire on the first birthday of the licensee occurring not less than two years after the date of the issuance of the license if, at that time, the licensee is seventy-two years of age or older; and
- (3) If the licensee is a legal immigrant, the license shall expire no later than the licensee's authorized period of stay in the United States.

The examiner of drivers may issue a license for a shorter period if the licensee has a physical condition or conditions

that the examiner of drivers reasonably believes may impair the driver's ability to drive. [L 1967, c 214, pt of §2; HRS §286-106; am L 1970, c 164, §1(2) and §3; am L 1974, c 97, §1; gen ch 1985; am L 1989, c 296, §1; am L 1997, c 60, §1 and c 330, §3; am L 2005, c 72, §§4, 15; am L 2008, c 50, §§2, 4; am L 2010, c 38, §§2, 6 and c 85, §2]

### **Law Journals and Reviews**

Driving into the Sunset: A Proposal for Mandatory Reporting to the DMV by Physicians Treating Unsafe Elderly Drivers. 25 UH L. Rev. 59.

" **§286-106.5 Expiration of licenses; out-of-country active duty military personnel and dependents.** Notwithstanding section 286-106, the expired driver's license of a member of any component of the United States armed forces who is on active federal service, or the member's dependent if the dependent accompanied the member, and whose driver's license expired while the member was deployed outside the United States, shall remain valid for ninety days after the service member's return to the United States. [L 2008, c 50, §1; am L 2012, c 22, §1]

" **§286-107 License renewals; procedures and requirements.**

(a) The examiner of drivers may accept an application for a renewal of a driver's license made not more than six months prior to the date of expiration.

If, however, the renewal is not applied for within ninety days after the expiration of the license, the applicant for renewal shall be treated as an applicant for a new license and examined as provided in section 286-108.

(b) Except as otherwise provided in subsection (c), an applicant for a renewal of a driver's license under this section, or the reactivation of an expired license under section 286-107.5(a), shall appear in person before the examiner of drivers and the examiner of drivers shall administer such physical examinations as the state director of transportation deems necessary to determine the applicant's fitness to continue to operate a motor vehicle.

(c) Any person who holds a category (1), (2), or (3) license issued under this part who is unable to appear in person before the examiner of drivers to apply for a renewal of the driver's license, may, if the person is not disqualified from renewing the license under subsection (a) except as provided under subsection (h), apply for a renewal by mail. The applicant's request to have the license renewed by mail must be received by the examiner of drivers within ninety days after the

expiration of the license or it shall be treated as an application for reactivation of an expired license under section 286-107.5. The examiner of drivers shall, upon receipt of the request, furnish the applicant with all necessary forms and instructions. An application for renewal made pursuant to this subsection shall be accompanied by a statement from a licensed physician, physician assistant, or advanced practice registered nurse certifying that the applicant was examined by the licensed physician, physician assistant, or advanced practice registered nurse not more than six months prior to the expiration date of the applicant's license and that the applicant was found by the examination to have met the physical requirements established by the state director of transportation for the renewal of licenses. The application for renewal shall also be accompanied by:

- (1) A notarized statement of the applicant certifying that the applicant does not possess any valid license to operate the same or similar category or categories of motor vehicles, issued by another licensing authority (unless the license is concurrently surrendered); and
- (2) Such other information as may be required by the examiner of drivers that is reasonably necessary to confirm the identity of the applicant and the applicant's fitness to continue to operate a motor vehicle.

(d) An applicant for a renewal of the applicant's driver's license, whether applying pursuant to subsections (b) or (c), shall pay the fee determined by the council of the appropriate county. Payment of the fee shall be by certified check or money order, tendered together with the application.

(e) No driver's license shall be renewed by the examiner of drivers unless:

- (1) The examiner of drivers is satisfied of the applicant's fitness to continue to operate a motor vehicle;
  - (2) The fee required by subsection (d) is tendered together with the application for renewal; and
  - (3) The applicant complies with section 286-102.5.
- (f) No driver's license shall be renewable by mail:
- (1) For more than two consecutive renewals, regardless of whether the license expires, as provided under section 286-106, on the eighth, fourth, or second birthday after issuance; or
  - (2) Sixteen years have lapsed since the applicant had appeared in person;

provided that this subsection shall not apply to a resident military person or that person's immediate family if the

resident military person resides outside the State on official military orders.

(g) Notwithstanding subsection (a), any applicant for a renewal of a driver's license who is a member of any component of the United States armed forces and who is on active federal service outside of the State at the time the applicant's license should be renewed, may file an application for a renewal of the driver's license, which shall be accompanied by verification of federal active service outside the State as required by the examiner of drivers, within ninety days of the applicant's return to the State or discharge from hospitalization. The examiner of drivers may waive the reactivation fee otherwise required by section 286-107.5.

(h) The state director of transportation shall adopt rules and regulations pursuant to chapter 91, necessary for the purposes of this section, including rules and regulations governing the effect to be given to convictions for violations of traffic laws of a foreign jurisdiction, upon license renewal procedures. [L 1974, c 97, §3; am L 1975, c 194, §§1, 2; am L Sp 1977 1st, c 20, §12; gen ch 1985; am L 1986, c 232, §1; am L 1987, c 318, §1; am L 1997, c 60, §§2, 3 and c 330, §4; am L 2001, c 86, §4; am L 2002, c 48, §1; am L 2006, c 221, §1; am L 2009, c 151, §4; am L 2014, c 45, §3; am L 2016, c 15, §1]

" **[\$286-107.5] Reactivation of expired license; fees; road test waived.** (a) Unless revoked or suspended, and except as provided in subsection (b), all drivers' licenses expired under section 286-106 may be reactivated by the licensee in accordance with the requirements and procedures set forth for the renewal of licenses under section 286-107(b). No person seeking reactivation of an expired license under this subsection shall be required to undergo reexamination of the person's driving skills under section 286-108. The examiner of drivers shall require the holder of an expired license to pay a reactivation fee of \$5 for each thirty-day period, or fraction thereof, that has elapsed after the ninety-day grace period.

(b) Any driver's license not reactivated under subsection (a) within one year of the indicated date of expiration shall be invalid. The examiner of drivers shall examine all applicants whose licenses have been declared invalid under this subsection in accordance with the licensing procedures established under sections 286-108 and 286-110. [L 1997, c 330, §1]

" **§286-108 Examination of applicants.** (a) Except as provided in section 286-107.5(a), the examiner of drivers shall examine every applicant for a driver's license, except as

otherwise provided in this part. The examination shall include a test of:

- (1) The applicant's eyesight and any further physical examination that the examiner of drivers finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways;
- (2) The applicant's ability to understand highway signs regulating, warning, and directing traffic;
- (3) The applicant's knowledge of the rules of the road based on the traffic laws of the State and the traffic ordinances of the county where the applicant resides or intends to operate a motor vehicle; provided that the examination shall specifically test the applicant's knowledge of the provisions of section 291C-121.5 and section 291C-137; and
- (4) The actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

The examinations shall be appropriate to the operation of the category of motor vehicle for which the applicant seeks to be licensed and shall be conducted as required by the director.

The examiner of drivers shall require every applicant to comply with section 286-102.5.

The examiner of drivers may waive the actual demonstration of ability to operate a motorcycle or motor scooter for any person who furnishes evidence, to the satisfaction of the examiner of drivers, that the person has completed the motorcycle education course approved by the director in accordance with section 431:10G-104.

At the time of examination, an application for voter registration by mail shall be made available to every applicant for a driver's license.

For the purposes of this section, the term "applicant" does not include any person reactivating a license under section 286-107.5(a).

(b) The examiner of drivers shall require proof from every applicant under the age of eighteen that the applicant has completed a driver education program and a behind-the-wheel driver training course certified by the director of transportation. The examiner of drivers shall not examine any applicant for a provisional license who is sixteen through seventeen years of age unless the applicant holds and has held a valid instruction permit under section 286-110, for a period of no fewer than one hundred eighty days. If the applicant's instruction permit has expired and a new instruction permit was issued within thirty days of its expiration, the examiner of

drivers may examine the applicant without requiring an additional one hundred eighty day period.

(c) The examiner of drivers may waive the written or oral examination required under subsection (a)(2) and (3) and the actual demonstration of ability to operate a motor vehicle for any person who:

- (1) Is at least eighteen years of age and who possesses a valid driver's license issued to the applicant in any other state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, a province of the Dominion of Canada, or the Commonwealth of the Northern Mariana Islands for the operation of vehicles in categories 1 through 3 of section 286-102;
- (2) Has completed the same requirements as set forth in section 286-102.6(f) in another state and possesses a valid provisional license from that state; or
- (3) Is at least eighteen years of age and who possesses a valid driver's license issued to the applicant in any jurisdiction for which the director has granted reciprocal licensing privileges in accordance with section 286-101.5 for the operation of vehicles in category (3) of section 286-102(b).

(d) As part of the examination required by this section, the applicant for a driver's license shall produce and display a valid motor vehicle or liability insurance identification card for the motor vehicle required by sections 431:10C-107 and 431:10G-106, when the applicant demonstrates the ability to operate a motor vehicle to the satisfaction of the examiner of drivers. If no valid motor vehicle or liability insurance identification card is displayed, the examiner of drivers shall not issue a driver's license to the applicant. [L 1937, c 234, §11; RL 1945, §7312; RL 1955, §160-42; am L 1967, c 214, §9; HRS §286-108; am L 1975, c 194, §3; am L Sp 1977 1st, c 20, §12; am L 1978, c 91, §11; am L 1985, c 26, §1; am L 1986, c 224, §1; am L 1990, c 45, §10; am L 1991, c 60, §1; am L 1997, c 104, §1, c 251, §7, c 269, §1, and c 330, §5; am L 1999, c 175, §§2, 15; am L 2001, c 86, §5; am L 2002, c 4, §1; am L 2005, c 72, §§5, 15; am L 2008, c 170, §§3, 7; am L 2010, c 85, §2; am L 2013, c 74, §3; am L 2014, c 40, §1; am L 2015, c 131, §4; am L 2016, c 15, §2]

" **[§286-108.4 Driver education and behind-the-wheel driver training program.]** The director of transportation is directed to establish and certify a statewide driver education program and behind-the-wheel driver training program, to include the number of course hours, curriculum, and certification of

teachers and third-party examiners. The director of transportation is also directed to set a cost for the programs to enable the programs to be self-sufficient. The director of transportation shall adopt rules pursuant to chapter 91 necessary for the purposes of this [section]. [L 1999, c 175, §4]

#### Revision Note

Section codified pursuant to §23G-15.

" **§286-108.5 REPEALED.** L 1989, c 320, §7; L 1990, c 342, §16.

" **§286-109 General provision governing the issuance of licenses.** (a) Upon payment of the required fee and upon demonstrating the ability to operate a certain category or categories of motor vehicles to the satisfaction of the examiner of drivers, an applicant for a driver's license shall be issued a single license of a design approved by the director of transportation upon which is made a notation of:

- (1) The category or categories of motor vehicles the applicant may operate;
- (2) Any restrictive provisions to which the license is subject;
- (3) Veteran status, if desired by the applicant; provided that the notation shall be on the front of the license and shall not include any designation other than the term "veteran"; and
- (4) When the license is issued to a person under twenty-one years of age, a statement, in clearly legible print that shall contrast with the other information appearing on the license, which indicates the date on which the person will attain the age of twenty-one years.

As used in this subsection, "veteran" means any person who served in any of the uniformed services of the United States, including veterans of the Korean conflict and persons who served in the armed forces of the Republic of Korea, who fought under the command of the United Nations led by the United States, during the Korean conflict and are currently United States citizens, and was discharged under conditions other than dishonorable.

(b) The examiner of drivers shall not issue or renew any driver's license using the driver's social security number on the driver's license.



(c) Statutes of limitations and other provisions of this chapter notwithstanding, no driver's license or instruction permit shall be issued or renewed under this section, where the examiner of drivers is notified by the district judge, traffic violations bureaus of the district courts, or the judge of the circuit court that the applicant has failed to respond to a traffic citation or summons, or failed to appear in court after an arrest for the violation of any traffic laws of a county, this chapter or chapter 286G, 287, 290, 291, or 291C, or of any motor vehicle insurance laws under article 10C of chapter 431, or of any motorcycle or motor scooter insurance laws under article 10G of chapter 431, and the same remains delinquent and outstanding, or the applicant, has as of the time of the application, failed to comply in full with all orders of the court; provided that the district court with whose order an applicant has failed to comply in full, may approve the issuance or renewal of a driver's license or instruction permit other than a commercial driver's license upon conditions imposed by the court for the satisfaction of the outstanding court order and any other conditions as may be imposed by the court, if one or more of the following conditions are met:

- (1) The applicant is gainfully employed in a position that requires driving and will be discharged if the applicant is unable to drive; or
- (2) The applicant has no access to alternative transportation and therefore must drive to work;

provided further that if the applicant has failed to comply in full with orders of the district court of more than one circuit, the applicant shall obtain the approval of the district court of each circuit in which the applicant has an outstanding court order before a driver's license or instruction permit may be issued or renewed under this subsection.

A driver's license or instruction permit issued or renewed under this subsection shall be subject to immediate suspension by the court upon the applicant's failure to remain in full compliance with all conditions imposed by the court for the issuance or renewal of the driver's license or instruction permit. The examiner of drivers may place an indication of restriction upon a driver's license or instruction permit issued or renewed under this subsection. Proof of financial responsibility under section 287-20 shall not apply to the issuance or renewal of driver's licenses or instruction permits under this subsection. [L 1967, c 214, pt of §2; HRS §286-109; am L 1970, c 164, §3; am L 1975, c 24, §7; am L Sp 1977 1st, c 20, §12; am L 1985, c 107, §1; am L 1990, c 9, §1; am L 1999, c 269, §1; am L 2002, c 105, §2; am L 2014, c 6, §1; am L 2016, c 24, §2]

" **[§286-109.4] Designation of advance health-care directive.** On the application form for any driver's license or license renewal, the examiner of drivers shall ask the applicant to designate whether the applicant has an advance health-care directive. The examiner of drivers shall issue or renew a license bearing the designation "advance health-care directive", a symbol, or an abbreviation thereof, for those applicants who have so indicated. "Advance health-care directive" means an individual instruction in writing, a living will, or a durable power of attorney for health care decisions. No specific medical treatment information shall be imprinted on the driver's license. [L 2000, c 295, §1]

" **§286-109.5 Designation of anatomical gift.** The examiner of drivers shall design and implement a system to request anatomical gift information from all applicants for a driver's license or license renewal, at the time of application, including a method of directly imprinting on a license an applicant's designation of whether the applicant wishes to be an organ donor. The request shall elicit whether the applicant wishes to be an organ donor in the event of the applicant's death. [L 1975, c 80, §1; am L Sp 1977 1st, c 20, §12; gen ch 1985; am L 1990, c 18, §2]

#### **Note**

Developing an organ donor registry. L 2008, c 165.

#### **Cross References**

Uniform Anatomical Gift Act, see chapter 327.

" **§286-109.6 Limited access to driver's license anatomical gift data.** The examiner of drivers shall adopt rules pursuant to chapter 91 to allow an organ procurement organization twenty-four-hour telephone access to the driver's license database information, solely for the purpose of determining whether a driver has indicated a willingness to be an organ donor pursuant to section 286-109.5.

As used in this section, "organ procurement organization" shall have the same meaning as procurement organization in section 327-2. [L 1999, c 88, pt of §2; am L 2008, c 122, §2]

#### **Note**

Developing an organ donor registry. L 2008, c 165.

" **§286-109.7 Organ and tissue education fee.**

Notwithstanding any other law to the contrary, beginning July 1, 2000, a donation of \$1, in addition to any other fees under this chapter, may be collected upon designation by an individual or entity from each certificate of registration by the director of finance of each county to be deposited on a quarterly basis into the organ and tissue education special fund pursuant to section 327-24. The counties may retain a portion of the \$1 donation as an administrative fee to cover the cost of collecting, accounting for, and depositing the balance into the organ and tissue education special fund. The retention shall not exceed \$0.20 for each \$1 collected. [L 1999, c 88, pt of §2; am L 2003, c 88, §2; am L 2008, c 122, §3]

" **§286-110 Instruction permits.** (a) Any person aged fifteen years and six months or more who, except for the person's lack of instruction in operating a motor vehicle, would be qualified to obtain a driver's license issued under this part may apply for a temporary instruction permit or a limited purpose instruction permit at the office of the examiner of drivers in the county in which the applicant resides; provided that the applicant complies with section 286-102.5.

(b) The examiner of drivers shall examine every applicant for an instruction permit. The examination shall include tests of the applicant's:

- (1) Eyesight and other physical or mental capabilities to determine if the applicant is capable of operating a motor vehicle;
- (2) Understanding of highway signs regulating, warning, and directing traffic; and
- (3) Knowledge of the traffic laws, ordinances, or regulations of the State and the county where the applicant resides or intends to operate a motor vehicle.

(c) If the examiner of drivers is satisfied that the applicant is qualified to receive an instruction permit, the examiner of drivers shall issue the permit entitling the applicant, while having the permit in the applicant's immediate possession, to drive a motor vehicle upon the highways for a period of one year; provided that:

- (1) An applicant who is registered in a driver training course shall be issued a temporary instruction permit for the duration of the course and the termination date of the course shall be entered on the permit; and

- (2) If the applicant is a legal immigrant, the permit shall expire no later than the applicant's authorized period of stay in the United States.

A person who is not licensed to operate the category of motor vehicles to which the driving training course applies shall not operate a motor vehicle in connection with the driving training course without a valid temporary instruction permit.

(d) Except when operating a motor scooter or motorcycle, the holder of an instruction permit shall be accompanied by a person who is twenty-one years of age or older and licensed to operate the category of motor vehicles in which the motor vehicle that is being operated belongs. The licensed person shall occupy a passenger seat beside the permit holder while the motor vehicle is being operated; provided that if the holder of the instruction permit is under the age of eighteen years and is driving between the hours of 11:00 p.m. and 5:00 a.m.:

- (1) A licensed driver who is the permit holder's parent or guardian shall occupy a passenger seat beside the driver while the motor vehicle is operated, unless the permit holder is an emancipated minor;
- (2) The licensed driver shall be licensed to operate the same category of motor vehicles as the motor vehicle being operated by the holder of the instruction permit; and
- (3) All occupants of the motor vehicle shall be restrained by a seat belt assembly or a child passenger safety restraint system as required under sections 291-11.5 and 291-11.6, notwithstanding any other law to the contrary.

(e) No holder of a temporary instruction permit shall operate a motorcycle or a motor scooter during hours of darkness or carry any passengers.

(f) No holder of a category 1 or 2 temporary instruction permit shall have the permit renewed, nor shall the holder be issued another temporary instruction permit for the same purpose, unless the holder has taken the examination for a category 1 or 2 license at least once prior to the expiration of the temporary instruction permit. If the holder of a temporary instruction permit fails to meet the requirements of this section, the holder shall not be permitted to apply for another category 1 or 2 temporary instruction permit for a period of three months. Nothing in this subsection shall affect the right and privilege of any holder of a category 1 or 2 temporary instruction permit to obtain a temporary instruction permit or driver's license for the operation of any other type of motor vehicle.

(g) The examiner of drivers may accept an application for renewal of an instruction permit no more than thirty days prior to or ninety days after the expiration date of the instruction permit, whereupon the applicant for renewal of an instruction permit shall be exempt from subsection (b)(2) and (3). If an application for renewal of an instruction permit is not made within ninety days after the expiration date of the permit, the applicant shall be treated as applying for a new instruction permit and examined in accordance with subsection (b).

(h) Notwithstanding any other law to the contrary, the examiner of drivers may issue an instruction permit to an applicant with a disability who has completed a medical review with this State, and as a condition to licensure is required to pass a road test, but has failed the road test on the applicant's first attempt. The instruction permit issued under this subsection may be renewed no more than thirty days prior to or ninety days after the expiration date of the instruction permit upon receiving an updated medical report. Subsections (b)(2) and (3) shall not apply to the issuance or renewal of an instruction permit issued under this subsection.

For the purposes of this subsection, "applicant with a disability" means an applicant who the examiner of drivers has reasonable cause to believe may have a mental or physical infirmity or disability that would make it unsafe to operate a motor vehicle pursuant to section 286-119 and has been medically evaluated by the medical advisory board established pursuant to section 286-4.1. [L 1967, c 214, pt of §2; HRS §286-110; am L 1970, c 164, §3; am L 1977, c 50, §2; gen ch 1985; am L 1996, c 100, §1; am L 1997, c 104, §2; am L 1999, c 175, §3; am L 2001, c 82, §1 and c 86, §6; am L 2002, c 25, §1; am L 2005, c 72, §§6, 15; am L 2006, c 61, §2; am L 2010, c 38, §3 and c 85, §2; am L 2015, c 172, §4]

#### **Cross References**

Statewide driver education program and behind-the-wheel driver training program; rules, see §286-108.4.

" **§286-111 Application for license, provisional license, instruction permit, limited purpose driver's license, limited purpose provisional driver's license, or limited purpose instruction permit; fees.** (a) Every application for an instruction permit, provisional license, driver's license, limited purpose driver's license, limited purpose provisional driver's license, or limited purpose instruction permit shall be made upon a form furnished by the examiner of drivers and shall be verified by the applicant before a person authorized to

administer oaths. The examiner of drivers and officers serving under the examiner may administer the oaths without charge. Each application for an instruction permit for a category (1), (2), (3), or (4) license shall be accompanied by a fee to be determined by the council of each county, and each application for a provisional license or driver's license shall be accompanied by the fee, unless the applicant has already paid the fee upon application for an instruction permit in the same county, in which event no fee shall be charged. An additional fee to be determined by the council of each county shall be charged and collected upon the issuance of a provisional license or driver's license. All of the foregoing fees shall become county realizations.

(b) The director shall establish by rule a standard fee for all driver's license applicants who require verification through the federal system that their presence in the United States is authorized by federal law. The fees collected shall become state realizations and be deposited into the state highway fund. The State shall reimburse the counties all costs of verification through the federal system. The amount of reimbursement shall be determined by the director of transportation.

(c) The director of transportation shall establish a fee schedule for all commercial driver's licensing examinations. The fees collected for a commercial driver's license shall become state realizations and shall be deposited in the state highway fund. The State shall reimburse the counties all costs for administering the commercial driver's licensing program. The amount of reimbursement shall be determined by the director of transportation.

(d) Every application shall state the full name, date of birth, sex, occupation, veteran status if applicable (including veterans of the Korean conflict and persons who served in the armed forces of the Republic of Korea, who fought under the command of the United Nations led by the United States, during the Korean conflict and are currently United States citizens) and desired by the applicant, social security number if the applicant is eligible for a social security number, the residence address, and business address, if any, of the applicant, shall briefly describe the applicant, and shall state whether the applicant has theretofore been licensed as a driver, and, if so, when and in what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, or refusal.

(e) Except as provided in section 286-104.5, if the applicant is not eligible to receive a social security number,

the applicant shall submit, in lieu of providing proof of social security number pursuant to subsection (d):

- (1) A United States Social Security Administration letter stating that the applicant is ineligible to obtain a social security number; and
- (2) Either:
  - (A) A government-issued photo identification document; or
  - (B) Other identification documents as deemed acceptable by the director. [L 1937, c 234, §7; am L Sp 1941, c 6, §1; RL 1945, §7308; RL 1955, §160-38; HRS §286-111; am L 1968, c 48, §5; am L 1970, c 164, §3; gen ch 1985; am L 1990, c 342, §20; am L 1999, c 269, §2; am L 2003, c 145, §1; am L 2005, c 72, §§7, 15; am L 2010, c 38, §4 and c 85, §2; am L 2014, c 6, §2; am L 2015, c 172, §3; am L 2016, c 24, §3]

#### **Attorney General Opinions**

The fee applies to nonresident servicemen and is not a tax nor a license fee imposed in respect to motor vehicles or the use thereof. Att. Gen. Op. 66-29.

Nonresident serviceman with home-state license must comply with section and is not exempted therefrom by the Soldier's and Sailor's Civil Relief Act. Att. Gen. Op. 68-24.

" **§286-112 Application of minors; liability of parents or guardian.** (a) The application of any person under the age of eighteen years for an instruction permit, provisional license, or driver's license shall be signed and verified before a person authorized to administer oaths by the appropriate one of the following:

- (1) If both the father and mother of the applicant have custody of the applicant, by both the father and mother of the applicant;
- (2) If only one parent has custody of the applicant, by the custodial parent;
- (3) If neither parent has custody of the applicant, and the applicant has a custodial guardian or has custodial guardians, by the custodial guardian or by all the custodial guardians; provided that the director of human services, or the director's designee, shall sign and verify the application of any applicant who is under foster care; provided further that the department of human services shall not have any liability in the event that the foster child is

- involved in a motor vehicle accident or a lawsuit arising as a result of the foster child's driving; or
- (4) If neither parent has custody of the applicant, and the applicant has no custodial guardian, by an employer of the applicant or by any responsible person who is willing to assume the obligation imposed under this part upon a person signing the application of a minor.

(b) Any negligence or misconduct of a minor under the age of eighteen years when driving a motor vehicle upon a highway shall be imputed to the person who has signed the application of the minor for a permit, provisional license, or license, which person shall be jointly and severally liable with the minor for any damages caused by the minor's negligence or misconduct.

(c) A nonresident minor shall be accorded all the privileges and be subjected to all the regulatory restrictions as are by this part provided for resident minors. [L 1937, c 234, §8; am L 1939, c 106, §1; RL 1945, §7309; RL 1955, §160-39; HRS §286-112; am L 1970, c 164, §3; am L 1972, c 2, pt of §6; am L 1983, c 45, §1; am L 2005, c 72, §§8, 15; am L 2006, c 289, §2; am L 2010, c 85, §2]

### **Attorney General Opinions**

Term "custody" means legal custody. Att. Gen. Op. 88-6.

### **Case Notes**

Nothing in statute prohibits suits by parents against their children. 51 H. 74, 450 P.2d 998.

" **§286-113 Release from liability.** Any person who has signed the application of a minor for an instruction permit, provisional license, or driver's license may file with the examiner of drivers a verified written request that the permit, provisional license, or license of the minor be canceled, together with the permit, provisional license, or license issued. Upon receipt of the request, the examiner of drivers shall cancel the permit, provisional license, or license of the minor and the person who signed the application of the minor shall be relieved from the liability imposed under this part for any subsequent negligence or wilful misconduct of the minor in operating a motor vehicle. Nothing herein shall be construed to limit the liability of parents for the torts of their child as provided in chapter 577. [L 1967, c 214, pt of §2; HRS §286-113; am L 1970, c 164, §3; am L 2005, c 72, §§9, 15; am L 2010, c 85, §2]



" **§286-114 Revocation of license, provisional license, or instruction permit upon death of person signing minor's application.** The examiner of drivers upon receipt of satisfactory evidence of the death of a person who signed the application of a minor for an instruction permit, provisional license, or a license shall cancel the permit, provisional license, or license and shall not issue a new permit, provisional license, or license until a new application duly signed and verified is made as required by this part. Upon canceling the permit, provisional license, or license, the examiner of drivers shall notify the minor to surrender the permit, provisional license, or license. If the death occurs after the minor has reached majority, this section shall not apply. [L 1967, c 214, pt of §2; HRS §286-114; am L 1970, c 164, §3; am L 2005, c 72, §§10, 15; am L 2010, c 85, §2]

" **§286-115 REPEALED.** L 1970, c 164, §1(4).

" **§286-116 License, insurance identification card, possession, exhibition.** (a) Every licensee shall have a valid driver's license in the licensee's immediate possession at all times, and a valid motor vehicle or liability insurance identification card applicable to the motor vehicle operated as required under section 431:10C-107 and section 431:10G-106, when operating a motor vehicle, and shall display the same upon demand of a police officer. Every police officer or law enforcement officer when stopping a vehicle or inspecting a vehicle for any reason shall demand that the driver or owner display the driver's or owner's driver's license and insurance identification card.

Upon demand, the driver or owner may display the driver's or owner's electronic motor vehicle insurance identification card on a mobile electronic device, as defined in section 291C-137. For the purposes of this section, when a person uses a mobile electronic device to display an electronic motor vehicle insurance identification card to a police officer or law enforcement officer, the officer may only view the electronic motor vehicle insurance identification card and shall be otherwise prohibited from viewing any other content on the mobile electronic device. Whenever a person presents a mobile electronic device pursuant to this section, that person assumes all liability for any damage to the mobile electronic device.

No person charged with violating this section shall be convicted if the person produces in court, or proves from the proper official or other records that the person was the holder of a driver's license or a motor vehicle or liability insurance

identification card and policy conforming to article 10C and article 10G of chapter 431 or a certificate of self-insurance issued by the insurance commissioner pursuant to section 431:10C-107 and section 431:10G-103, theretofore issued to the person and valid at the time of the person's arrest.

(b) At any time a law enforcement officer finds a motor vehicle in operation by a driver not in possession of the motor vehicle or liability insurance identification card required under section 431:10C-107 and section 431:10G-106, the officer shall issue a citation with the earliest possible date for court appearance in every instance.

(c) In all instances in which a citation shall be issued under subsection (b), whenever the driver cited is not found to be the registered owner of the motor vehicle under operation, the citation shall also be issued to the driver as the owner's agent and to the registered owner of the motor vehicle. Whenever the registered owner of any motor vehicle permits any person to operate the registered owner's motor vehicle, the registered owner appoints, designates, and constitutes the driver the registered owner's agent for all purposes under this section and section 431:10C-107, section 431:10G-106, and section 805-13.

(d) The operation of any motor vehicle required to be licensed on a highway by a driver, whether or not licensed, who knows, or has reason to believe, that the motor vehicle is not insured in compliance with article 10C and article 10G of chapter 431, shall constitute a violation of this chapter.

(e) Any registered owner of any motor vehicle required to be licensed, who directly or indirectly permits the operation of such motor vehicle on any highway at any time the motor vehicle is not insured in compliance with article 10C and article 10G of chapter 431, shall be guilty of a violation of this chapter. The registered owner shall, in all cases, be presumed to know whether a motor vehicle is insured in compliance with article 10C and article 10G of chapter 431. [L 1937, c 234, §14; RL 1945, §7315; RL 1955, §160-45; HRS §286-116; am L 1970, c 164, §3; am L 1978, c 91, §4; gen ch 1985; am L 1991, c 60, §2; am L 1993, c 6, §9; am L 1997, c 251, §8; am L 2016, c 82, §2]

### **Attorney General Opinions**

Conviction for not having a valid no-fault insurance identification card requires the party to submit proof of financial responsibility pursuant to §287-20. Att. Gen. Op. 88-3.

### **Case Notes**

When investigating a possible violation of a traffic law, an officer may properly ask a driver to display the driver's license. 61 H. 316, 603 P.2d 143.

Stopping a vehicle for "any reason" means any valid reason; police were authorized to ask driver for driver's license and no-fault insurance card. 71 H. 57, 782 P.2d 1225.

" **[\$286-116.5] Notice of change of address or name; penalty.**

(a) If the residence address of an applicant for, or a holder of, a driver's license is changed from that stated in the application or in the license issued to the applicant or holder, the person shall, within thirty days after such change in address, notify the examiner of drivers in writing of the person's old and new residence addresses and the number of any license then held by the person.

(b) If the name of an applicant for, or a holder of, a driver's license is changed from that shown on the applicant's or holder's application or license, the person shall, within thirty days after the change of name, notify the examiner of drivers in writing of the person's former name and the new name and of the number of any permit or license then held by the person. The examiner of drivers may require the person to file satisfactory proof of the change of name.

(c) Any person who violates this section shall be fined not more than \$25. [L 1975, c 43, §2; gen ch 1985]

" **§286-117 Duplicate permits, provisional licenses, and licenses.** The holder of an instruction permit, provisional license, or driver's license may upon payment of the reasonable cost of its issuance obtain a duplicate; provided that the holder shall surrender the original permit, provisional license, or license or furnish satisfactory proof of loss or destruction of the same.

The chief of police or a police officer shall notify a holder that the holder's permit, provisional license, or license is illegible and that the holder shall within ten days surrender the holder's permit, provisional license, or license and apply for a duplicate. Upon failure to comply with a notice to surrender an illegible permit, provisional license, or license and apply for a duplicate, the person to whom the permit or license is issued shall be subject to the penalties in section 286-136. [L 1967, c 214, pt of §2; HRS §286-117; am L 1970, c 164, §3; gen ch 1985; am L 1991, c 60, §3; am L 2005, c 72, §§11, 15; am L 2010, c 85, §2]

" **§286-118 Records to be kept by the examiner of drivers.**

The examiner of drivers shall file every application for a

license received by the examiner and shall maintain suitable indexes containing, in alphabetical order:

- (1) All applications denied with a note on each as to the reason for the denial;
- (2) All applications granted;
- (3) The name of every licensee whose license has been suspended or revoked by a court of competent jurisdiction with a note after each such name as to the reasons for such action.

The examiner of drivers shall also file all accident reports and abstracts of court records of convictions received by the examiner under the traffic laws and regulations of the State or any political subdivision thereof, and in connection therewith the examiner shall maintain convenient records or make suitable notations in order that an individual record of each licensee, the traffic accidents in which the licensee has been involved, and other pertinent data may be readily ascertainable and available for the consideration of the examiner of drivers upon any application for a renewal of license and at other suitable times.

The examiner of drivers may dispose of any records accumulated under this section whenever the examiner deems it advisable. [L 1937, c 234, §18; RL 1945, §7319; RL 1955, §160-50; am L 1967, c 214, §11; HRS §286-118; am L 1970, c 164, §3; gen ch 1985]

" **§286-118.5 License revoked for operating a vehicle under the influence of an intoxicant; eligibility for license renewal.**

(a) Notwithstanding any other law to the contrary, any person arrested for a violation of section 291E-61 or 291E-61.5 after December 31, 2010, whose license is revoked pursuant to this part or section 291E-61, and who otherwise qualifies for a permit under section 291E-44.5 or 291E-61, may apply for a renewal or reactivation of a driver's license as provided in section 286-107 or 286-107.5.

(b) A person may apply for relicensing under subsection (a); provided that:

- (1) The license renewal or reactivation shall be for the sole purpose of obtaining or extending a permit issued pursuant to section 291E-44.5 or 291E-61;
- (2) No physical driver's license shall be issued to the person; and
- (3) The driver's license shall expire as provided in section 286-106 or upon the end of the revocation period, whichever occurs first.

(c) A holder of a valid ignition interlock permit may take any tests necessary to apply for relicensing no sooner than

thirty days prior to expiration of the revocation period; provided that the driver's license shall not be issued until the completion of the revocation period. [L 2012, c 327, §2; am L 2015, c 40, §1]

" **§286-119 Authority of examiner of drivers to suspend or revoke licenses.** The examiner of drivers may suspend any driver's license without hearing when the examiner has reasonable cause to believe that the licensee is incompetent to operate the type of motor vehicle for which the licensee holds a license or is afflicted with mental or physical infirmities or disabilities which would make it unsafe for the licensee to operate a motor vehicle of the type for which the licensee is licensed. When the examiner of drivers suspends a license under this section, the examiner shall immediately notify the licensee and afford the licensee a hearing. After the hearing, the examiner of drivers may rescind the suspension, or the examiner may suspend the license for a further period or revoke the license. Any person whose license has been suspended or revoked under this section may appeal under section 286-129. [L 1967, c 214, pt of §2; HRS §286-119; am L 1970, c 164, §3; gen ch 1985]

" **§286-120 Authority of examiner of drivers to cancel licenses.** The examiner of drivers may cancel any driver's license if the examiner determines that the licensee was not entitled to it, failed to give the required or correct information in the licensee's application, or committed fraud in making the licensee's application or in obtaining the license.

Upon cancellation, the licensee shall surrender the licensee's license to the examiner of drivers. [L 1967, c 214, pt of §2; HRS §286-120; am L 1970, c 164, §3; gen ch 1985]

" **§286-121 Suspending or revoking privileges of nonresident and reporting convictions, suspensions, and revocations.** (a) The privilege of driving a motor vehicle on the highways of this State given to a nonresident hereunder shall be subject to suspension or revocation in like manner and for like cause as a driver's license issued hereunder may be suspended or revoked.

(b) The examiner of drivers is further authorized, upon receiving a record of the conviction in this State of a nonresident for any motor vehicle offense, to forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident.

(c) When a nonresident's operating privilege is suspended or revoked, the examiner of drivers shall forward a certified copy of the record of such action to the motor vehicle administrator in the state wherein such person resides. [L 1937,

c 234, §20; RL 1945, §7321; RL 1955, §160-53; am L 1967, c 214, §12; HRS §286-121; am L 1970, c 164, §3; am L 1971, c 127, pt of §3]

### **Cross References**

Nonresident violator compact, see chapter 291A.

" **§286-122 Suspension of a license; surrender.** (a) Every person whose license or driving privilege has been suspended pursuant to this part or any traffic law or regulation of the State or any county, shall surrender the person's license to the examiner of drivers or the court, as is appropriate, which agency shall take custody of the license during the period of suspension.

(b) The examiner of drivers may suspend or revoke the license of any resident of this State or the privilege of a nonresident to drive a motor vehicle in this State upon receiving notice of the conviction of that person in another state, or within this State or another state by the federal government, of an offense therein which, if committed within the jurisdiction of this State, would be grounds for the suspension or revocation of the driver's license or privilege.

The examiner of drivers may give the same effect to conduct of a resident in another state as is provided by the laws of this State had such conduct occurred in this State.

Any person whose license or driving privilege has been so suspended or revoked shall immediately return the person's license or permit to the examiner of drivers.

(c) Any resident or nonresident whose driver's license or privilege to operate a motor vehicle in this State has been suspended or revoked as provided in this chapter shall not operate a motor vehicle in this State under a license or permit issued by any other jurisdiction or otherwise during such suspension or after such revocation until a new license is obtained when and as permitted under this chapter. [L 1967, c 214, pt of §2; HRS §286-122; am L 1970, c 164, §3; am L 1971, c 127, pt of §3; am L 1983, c 47, §1; gen ch 1985]

### **Case Notes**

Does not authorize federal courts to assimilate state civil law for purposes of Assimilative Crimes Act. 616 F. Supp. 160.

" **§286-123 Record of conviction forwarded to examiner of drivers.** The record of any conviction resulting in the revocation or suspension of any person's license for a violation

of this part or any traffic law or regulation of the State or county shall be forwarded by the court to the examiner of drivers of the county in which the court is located. [L 1967, c 214, pt of §2; HRS §286-123; am L 1970, c 164, §3]

" **§286-124 Mandatory revocation of license by a court.** Any court of competent jurisdiction shall forthwith revoke the license of any driver upon a conviction of the driver of manslaughter or for negligent homicide in the first or second degrees resulting from the operation of a motor vehicle. The period of revocation shall be determined by the court at sentencing. [L 1937, c 234, §22; RL 1945, §7323; RL 1955, §160-55; am L 1965, c 122, §1; HRS §286-124; am L 1970, c 164, §3; am L 1971, c 171, §1; am L 2012, c 292, §1]

#### Case Notes

Statute mandates revocation of the license of an operator finally convicted of manslaughter resulting from operation of a motor vehicle; statute does not limit power of revocation to any specific type of motor vehicle license. 35 H. 565.

Referred to: 39 H. 152, 155.

" **§286-125 Discretionary revocation or suspension of license by a court.** In addition to the provisions for mandatory revocation of a license set forth in section 286-124, any court of competent jurisdiction may, in its discretion, revoke or suspend the license of any driver convicted of any felony in the commission of which a motor vehicle is used, or convicted of a violation of this part or of any traffic law or regulation of the State or any political subdivision thereof involving a vehicle in motion. [L 1937, c 234, §23; RL 1945, §7324; RL 1955, §160-56; HRS §286-125; am L 1970, c 164, §3; am L 1971, c 171, §2]

#### Case Notes

As §291C-161(c) requires every person convicted under §291C-105 to be sentenced in accordance with §291C-105, trial court erred in sentencing defendant to a six-month driver's license suspension under this section; the plain language of §291C-105 required the sentencing court to impose the list of sanctions as specific under §291C-105(c), including a thirty-day license suspension for a first-time offender. 121 H. 117 (App.), 214 P.3d 1107 (2009).

" **§286-126 Period of suspension or revocation.** Unless otherwise provided by law, a court of competent jurisdiction shall not suspend a license for a longer period than five years; and when a court has revoked a license, the person whose license was revoked may not apply for, and the examiner of drivers may not grant, a new driver's license until the expiration of the period of revocation determined by the court. [L 1937, c 234, §24; RL 1945, §7325; RL 1955, §160-57; HRS §286-126; am L 1970, c 164, §3; am L 1982, c 251, §2; am L 1990, c 188, §4; am L Sp 1991, c 1, §18; am L 2012, c 292, §2]

#### **Cross References**

Administrative revocation, see chapter 291E.

#### **Attorney General Opinions**

Pardon does not restore the right to a license before the expiration of one year. Att. Gen. Op. 61-79.

" **§286-127 REPEALED.** L 1970, c 164, §1(5).

" **§286-128 Evaluation of nonresident driving privileges; reports of outside convictions; reports of convictions by courts-martial or United States commissioners.** (a)

Nonresident privilege of driving a motor vehicle. The privilege of driving a motor vehicle on the highways of this State and the several counties, given to a nonresident under the laws of this State, shall be subject to suspension by the district judge in like manner, and for like cause, the same as a driver's license issued by this State may be suspended.

(b) Reports of outside convictions; recording against drivers. The district judges of each county shall enter into reciprocal agreements with the proper agency of any other county and the governor of the State may enter into such agreements with any state or territory for the purpose of reporting convictions or bail forfeitures in such county, state, or territory by a person holding a driver's license in such county, state, or territory. Such convictions or bail forfeitures in such county, state, or territory of a violation therein which if committed in this State would be a violation of the traffic laws of this State or the ordinances of the several counties, shall be recorded against a driver the same as if the conviction or bail forfeiture had been made in the State.

(c) Reports of convictions by courts-martial or United States commissioners; recording against drivers. Convictions by courts-martial of any of the various branches of the armed



forces of the United States or by a United States commissioner of a violation either on or off government property which, if committed in this State, would be a violation of the traffic laws of this State or the ordinances of the several counties, may be recorded against a driver the same as if the conviction had been in the courts of this State.

(d) Upon determination and order by a district judge that a person has violated traffic laws of the State or ordinances of its counties with such frequency as to indicate a disrespect for such laws or ordinances and a disregard for the safety of other persons on the highways within a twelve-month period, the licensee shall report in person for a review of the licensee's driving record with the judge as directed by the judge if the licensee is present in court. If the licensee is not present in court when the district judge makes a determination and order that the licensee has violated traffic laws of the State or ordinances of its counties with such frequency as to indicate a disrespect for such laws or ordinances and a disregard for the safety of other persons on the highways within a twelve-month period and is directed to report in person for a review of the licensee's driving record, then the clerk of the district court shall notify the licensee in writing by certified mail, return receipt requested, to addressee only, that the licensee is directed to report in person, within fifteen days after receipt of the notice to report, for a review of the licensee's driving record with the judge. At the review, the judge may order a licensee who has violated traffic laws of the State or ordinances of its counties with such frequency as to indicate a disrespect for such laws or ordinances and a disregard for the safety of other persons on the highways within a twelve-month period to attend a course of instruction in driving retraining by a designated driver instructor or driver training school. Any person who fails to report in person for a review of the person's driving record with the judge as required by this subsection or who fails to attend a course of instruction in driver retraining pursuant to the order of the judge as required by this subsection shall be fined not more than \$100 or shall have the person's license suspended not more than one year, or both. [L 1961, c 113, pt of §1; Supp, §160-70; am L 1967, c 214, §13; HRS §286-128; am L 1968, c 48, §3; am L 1970, c 164, §3 and c 188, §39; am L 1973, c 135, §2; am L 1975, c 139, §1; am L Sp 1977 1st, c 20, §12; am L 1978, c 222, §§3, 4; gen ch 1985; am L 1993, c 214, §6; am L 1994, c 94, §§1, 2; am L 1997, c 60, §4]

#### Case Notes

Violations of subsection (a)(2) and (a)(10) do not affect standard of guilt under §291-1. 46 H. 345, 379 P.2d 592.

" **§286-129 Appeal to circuit court.** Any applicant who has been refused a license after at least three examinations, or who has been refused any examination, and every licensee whose license has been suspended, revoked, or canceled by the examiner of drivers, may appeal from such refusal, suspension, revocation, or cancellation to the circuit court of the circuit in which the applicant or licensee resides by filing a notice of appeal in such court within thirty days after being notified of the refusal, suspension, revocation, or cancellation. The appeal shall not operate as a stay to the order or decision appealed from. The appeal shall be subject to such procedure and rules as may be prescribed by the court and the decision of the court shall be final except as otherwise provided in chapter 91. [L 1937, c 234, §26; RL 1945, §7327; RL 1955, §160-59; am L 1965, c 96, §100; HRS §286-129; am L 1970, c 164, §3]

#### **Rules of Court**

Appeal, see HRCPC rule 72.

" **§286-130 No operation under foreign license during revocation or suspension in this State.** Any resident or nonresident whose driver's license or right or privilege to operate a motor vehicle in this State has been suspended or revoked shall not operate a motor vehicle in this State under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during the suspension or after the revocation until a new license issued by the examiner of drivers is obtained when and as permitted by law. [L 1937, c 234, §27; RL 1945, §7328; RL 1955, §160-60; HRS §286-130; am L 1970, c 164, §3; am L 1982, c 251, §3]

" **§286-131 Unlawful use of license.** No person shall:

- (1) Display or permit to be displayed or have in the person's possession any canceled, revoked, suspended, fictitious, or fraudulently altered driver's license;
- (2) Lend the person's driver's license to any other person or knowingly permit the use thereof by another;
- (3) Display or represent as one's own any driver's license not issued to the person;
- (4) Fail or refuse to surrender to the examiner of drivers, upon the examiner's lawful demand, any driver's license that has been suspended, revoked, or canceled;

- (5) Use a false or fictitious name in any application for a driver's license or knowingly make a false statement or knowingly conceal a material fact, or otherwise commit a fraud in any such application; or
- (6) Use or have in the person's possession any reproduction, imitation, or facsimile of any driver's license or any identification with the appearance of a driver's license. [L 1937, c 234, §28; RL 1945, §7329; RL 1955, §160-61; HRS §286-131; am L 1970, c 164, §3; gen ch 1985; am L 1994, c 46, §1; am L 1996, c 169, §1; am L 2001, c 230, §2; am L 2002, c 224, §3; am L 2004, c 2, §1]

" **§286-132 Driving while license suspended or revoked.** Except as provided in section 291E-62, no resident or nonresident whose driver's license, right, or privilege to operate a motor vehicle in this State has been canceled, suspended, or revoked may drive any motor vehicle upon the highways of this State while the license, right, or privilege remains canceled, suspended, or revoked. [L 1937, c 234, §29; RL 1945, §7330; RL 1955, §160-62; HRS §286-132; am L 1970, c 164, §3; am L 1982, c 251, §4; am L 1985, c 258, §3; am L 1996, c 169, §2; am L 2001, c 157, §7]

#### Case Notes

Driving without license under §286-102 not lesser included offense of driving while license suspended under this section. 81 H. 76 (App.), 912 P.2d 573.

" **§286-133 Unlawful to permit unauthorized person to drive.** Except as provided in section 291E-67, no person shall authorize or knowingly permit a motor vehicle or moped owned by that person or under that person's control to be driven upon any highway by any person who is not authorized under law to drive the motor vehicle or moped. [L 1937, c 234, §30; RL 1945, §7331; RL 1955, §160-63; HRS §286-133; am L 1983, c 197, §1; am L 2010, c 166, §3]

" **§286-134 Employing unlicensed driver.** No person shall employ as a driver of a certain category of motor vehicle any person who is not licensed under this part to operate that category of motor vehicle. [L 1967, c 214, pt of §2; HRS §286-134; am L 1970, c 164, §3]

" **§286-135 Renting motor vehicle to another.** Every person renting a motor vehicle to another shall keep a record of the

registration number of the motor vehicle so rented, the name and address of the person to whom the vehicle is rented, the number of the license of the latter person, and the date and place when and where the license was issued. The record shall be open to inspection by any police officer or the examiner of drivers or the examiner's representative. [L 1937, c 234, §32; RL 1945, §7333; RL 1955, §160-65; HRS §286-135; am L 1970, c 164, §3; gen ch 1985]

" **§286-136 Penalty.** (a) Except as provided in subsection (b), any person who violates section 286-102, 286-122, 286-130, 286-131, 286-132, 286-133, or 286-134 shall be fined not more than \$1,000 or imprisoned not more than thirty days, or both. Any person who violates any other section in this part shall be fined not more than \$1,000.

(b) Any person who is convicted of violating section 286-102, 286-122, 286-130, 286-131, 286-132, 286-133, or 286-134 shall be subject to a minimum fine of \$500 and a maximum fine of \$1,000, or imprisoned not more than one year, or both, if the person has two or more prior convictions for the same offense in the preceding five-year period.

(c) Notwithstanding subsections (a) and (b), a minor under the age of eighteen under the jurisdiction of the family court who is subject to this section shall either lose the right to drive a motor vehicle until the age of eighteen or be subject to a fine of \$500. [L 1967, c 214, pt of §2; HRS §286-136; am L 1993, c 214, §7; am L 1996, c 169, §3; am L 2003, c 69, §5]

#### Case Notes

Under subsection (b) (1996), it is the date the defendant committed the current offense for which he or she is being prosecuted that is used to determine whether the defendant has two or more prior convictions for the same offense in the preceding five-year period. 118 H. 259 (App.), 188 P.3d 773 (2008).

" **§286-137 District courts to keep records.** The district court of each circuit shall keep, maintain, and control or shall otherwise provide for the keeping, maintaining, and controlling of proper and accurate records of each conviction or bail forfeiture or any other disposition of each violation of licensee coming within this part. The district court of each circuit shall also establish procedures for the accounting, control, and disposition of each traffic citation, notice, or summons used or issued, whether the use or issuance of the same is authorized by the court or by any other governmental agency

under applicable laws or ordinances, which may include the keeping of an accurate citation, notice, or summons control ledger or form in a numerical, chronological, or other accountable manner. [L 1961, c 113, pt of §1; Supp, §160-71; HRS §286-137; am L 1970, c 188, §39; am L 1997, c 153, §2]

" **§286-138 Prohibiting "fixing" of tickets and providing penalties therefor; nolle prosequi by prosecuting attorney only by motion and approval of court.** (a) It shall be unlawful for any person, including any government official or employee of the State or county, to "fix", "void", change, modify, adjust, tamper with, or otherwise dispose of any traffic citation, notice, or summons. Nothing in this subsection shall be construed to affect the powers of the judges of the several courts in the exercise of their judicial functions. Any person who intentionally or knowingly violates this subsection shall be guilty of a class C felony; except that the person shall be fined not less than \$1,000 and not more than \$10,000. Any government official or employee of this State or any county who violates this subsection shall be summarily discharged from the official's or employee's office or employment.

(b) No nolle prosequi shall be entered in any case involving a violation of the traffic laws or ordinances of the State or of the several counties and no case or any charge arising therefrom shall be stricken, amended, or reduced, except by consent of the court upon motion of the prosecuting attorney stating the reasons therefor. The court may deny the motion if it deems the reasons insufficient. [L 1961, c 113, pt of §1; Supp, §160-72; HRS §286-138; am L 1970, c 188, §39; gen ch 1985; am L 1993, c 214, §8; am L 1997, c 153, §3]

#### Case Notes

Discharge of public employee from employment was valid. 71 H. 419, 794 P.2d 1115.

" **§286-139 Preferred insurance rate.** Insurers may provide preferential insurance rates to those persons who have favorable records to their credit. [L 1961, c 113, §2; Supp, §160-73; HRS §286-139]

" **§286-140 REPEALED.** L 1975, c 113, §13.

"PART VII. ALCOHOL, DRUGS, AND HIGHWAY SAFETY--REPEALED

**§§286-151 to 163 REPEALED.** L 2000, c 189, §28.

## "PART VIII. TRAFFIC RECORDS

**§286-171 Statewide traffic records system.** (a) There is established a statewide traffic records system. The state director of transportation shall be responsible for the administration and operation of the system and for this purpose shall adopt necessary rules and regulations pursuant to chapter 91.

(b) The statewide traffic records system shall include all traffic records of the violation bureaus of the district courts, the circuit courts, the police departments, the county [directors of finance], the department of health, and the department of education and all dispositions pertaining to administrative license revocation proceedings conducted by the administrative director of the courts. [L 1967, c 214, pt of §2; HRS §286-171; am L 1968, c 48, §2(e); am L Sp 1977 1st, c 20, §12; am L Sp 1991, c 1, §2]

" **§286-172 Furnishing of information.** (a) Subject to authorization granted by the chief justice with respect to the traffic records of the violations bureaus of the district courts and of the circuit courts, the director of transportation shall furnish information contained in the statewide traffic records system in response to:

- (1) Any request from a state, a political subdivision of a state, or a federal department or agency, or any other authorized person pursuant to rules adopted by the director of transportation under chapter 91;
- (2) Any request from a person having a legitimate reason, as determined by the director, as provided under the rules adopted by the director under paragraph (1), to obtain the information for verification of vehicle ownership, traffic safety programs, or for research or statistical reports;
- (3) Any request from a person required or authorized by law to give written notice by mail to owners of vehicles; or
- (4) Any request from the energy resources coordinator to track the number and type of vehicles in use and the effectiveness of efforts to increase the efficiency and diversify the fuel needs of Hawaii's transportation sector.

(b) Any person requesting information contained in the statewide traffic records system under subsection (a)(2) shall file an affidavit with the director stating the reasons for obtaining the information and making assurances that the information will be used only for such reasons, that individual

identities will be properly protected, and that the information will not be used to compile a list of individuals for the purposes of any commercial solicitation by mail or otherwise, or the collection of delinquent accounts or any other purpose not allowed or provided for by the rules.

(c) The information provided to any person qualifying to receive information under subsection (a)(2) shall be provided for a fee and under such conditions as set by the director pursuant to rules adopted by the director under chapter 91. The director shall require the person receiving the information to file with the director a corporate surety bond in favor of the State in the penal sum of not more than \$70,000, conditioned upon the full and faithful compliance of the person receiving the information with the terms and conditions of the affidavit and the conditions set by the director. Any person otherwise qualified to receive information under subsection (a)(2) and who complies with the provisions of this section may receive all the information in the motor vehicle registration file if the person either provides information to or performs recalls on behalf of manufacturers of motor vehicles as authorized by the federal government or as deemed necessary by a manufacturer in order to protect the public health, safety, and welfare or to make a free correction of a manufacturing deficiency.

(d) Any person receiving information pursuant to subsection (a)(2) or (3) shall hold harmless the State and any agency thereof from all claims for improper use or release of such information. [L 1967, c 214, pt of §2; HRS §286-172; am L 1968, c 48, §2(e); am L Sp 1977 1st, c 20, §12; am L 1981, c 194, §2; am L 1983, c 154, §2; am L 1986, c 286, §1; am L 1998, c 234, §§3, 29; am L 1999, c 263, §3; am L 2000, c 240, §§3, 21; am L 2001, c 55, §13; am L 2002, c 58, §2; am L 2009, c 156, §7]

#### "[PART IX. PUPIL TRANSPORTATION]

**§286-181 Pupil transportation safety.** (a) As used in this section "school vehicle" means any publicly or privately owned motor vehicle used to transport pupils to and from a school, as defined in section 302A-901, school functions, or school-related events, except:

- (1) A motor vehicle used for the transportation of pupils attending schools above the twelfth grade or pupils over eighteen years of age;
- (2) A privately-owned passenger vehicle when the transportation is provided without compensation of any kind;
- (3) A motor vehicle used for the transportation of pupils together with other passengers as a part of the

regularly scheduled operation of a mass transit system; or

- (4) A privately-owned motor vehicle when the transportation is provided by a community association or a nonprofit corporation, duly incorporated with the department of commerce and consumer affairs, which operates for the purpose of promoting recreation, health, safety, ridesharing, or social group functions.

(b) The department of transportation shall grant exemptions for the use of vehicles other than school vehicles when the department finds that compliance with this section is:

- (1) Impractical due to the unavailability of school vehicles; or
- (2) Impractical due to economic factors.

No exemption shall be granted for the qualifications of individuals driving a bus as defined in section 286-2 and such individuals shall meet school vehicle driver qualifications.

(c) The exemptions in subsection (b) shall be granted:

- (1) To the department of education to administer to public schools based on criteria developed by the departments of transportation and education; provided that the department of education shall submit a report to the department of transportation at the end of each school year on the extent to which these exemptions were utilized;
- (2) To a board of independent schools, which is registered with the department of commerce and consumer affairs, to administer to private schools utilizing criteria developed by the departments of transportation and education; provided that the board shall submit a report to the department of transportation at the end of each school year on the extent to which these exemptions were utilized;
- (3) Only for the transport of pupils to and from school functions or school-related activities but not for transportation to and from a school;
- (4) Only when each pupil being transported has obtained a written statement from the pupil's parent or legal guardian waiving the State's liability; and
- (5) In accordance with the procedures and criteria established by rules of the department of transportation.

(d) The department of transportation may grant exemptions for the use of vehicles other than school vehicles for the transportation of students requiring special education and services when the department finds that compliance with this



section is impossible or impractical; provided that no exemption shall be granted for the qualifications of individuals driving a bus as defined in section 286-2 and such individuals shall meet school vehicle driver qualifications.

(e) The department of transportation shall adopt safety rules and standards relating to school vehicles, equipment, and drivers, including but not limited to:

- (1) School vehicle and school vehicle equipment design, construction, and identification;
- (2) School vehicle driver qualification and training as required by law;
- (3) School vehicle operation;
- (4) School vehicle maintenance and maintenance records;
- (5) Special school vehicle safety inspections;
- (6) Criteria for passenger loading and unloading safety areas; and
- (7) Procedures and criteria for the granting of exemptions permitted under subsections (b), (c), and (d);

provided that the rules and standards shall permit the use of small buses or vans weighing less than ten thousand pounds for the transportation of pupils of a day care center, child care facility, headstart program, and preschool, or of school pupils and school staffs to and from school-related activities.

(f) The department of education shall adopt necessary rules governing passenger conduct, passenger safety instruction, and disciplinary procedures for the enforcement of the rules applicable to passengers on school vehicles operated by or under contract with the State. Any pupil who fails to comply with any rule adopted pursuant to this subsection shall not be subject to section 286-10 but shall be subject to discipline in accordance with rules adopted by the department.

(g) Any person operating a school vehicle who fails to comply with any rule adopted pursuant to this section shall be fined not more than \$500 or imprisoned not more than six months, or both.

(h) The director of transportation, or any officer, employee, or representative of the department of transportation appointed by the director shall be responsible for the enforcement of any safety rules and standards adopted pursuant to subsection (e). The director of transportation may request that the executive officers of each county and any other state agency having responsibility relative to pupil transportation provide additional enforcement of any rule adopted by the department of transportation.

(i) As used in subsection (b), a school vehicle is unavailable when it:

- (1) Is being used during a specific time for contracted school-related transportation to and from school or related destinations;
- (2) Fails that day's inspection and has not been repaired;
- (3) Is already in transportation service;
- (4) Is committed for transportation service; or
- (5) Does not meet the requests of a school for a motorcoach with undercarriage storage compartments and public address system; provided that the use of the motorcoach shall be used solely for the transportation of middle, intermediate, or high school student groups to and from school-related events or activities. As used in this paragraph, "motorcoach" means a vehicle that carries more than twenty-five passengers, has a gross vehicle weight rating of at least 26,000 pounds, and is no more than fifteen years old. [L 1973, c 58, §2; am L 1983, c 94, §1; am L 1984, c 169, §2; am L 1985, c 93, §1; am L 1990, c 44, §1 and c 120, §1; am L 1992, c 18, §1; am L 1996, c 89, §12 and c 98, §1; am L 1997, c 126, §1; am L 1999, c 118, §1]

#### **"PART X. MISCELLANEOUS PROVISIONS**

**§286-191 REPEALED.** L 1989, c 185, §3.

#### **"PART XI. MOTOR CARRIER SAFETY LAW**

**§286-201 Definitions.** As used in this part unless the context otherwise requires:

"Director" means the director of transportation.

"Gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle. When there is no value specified by the manufacturer as the loaded weight of a single vehicle, the value shall be determined in accordance with rules adopted by the director.

"Motor carrier" as used in this part means any person who owns a motor vehicle used in, or engages in the transportation of persons or property by motor vehicle on the public highways in the furtherance of any commercial, industrial, or educational enterprise.

"Motor carrier vehicle" means any motor vehicle or vehicle, including integrally mounted equipment and specially constructed motorized equipment, used by a motor carrier to transport passengers or property on the public highways. [L Sp 1977 1st, c 20, pt of §1; am L 1979, c 119, §2; am L 1980, c 27, §2 and c 232, §13]

## Revision Note

Numeric designations deleted and definitions rearranged.

## Cross References

Motor carrier law, see chapter 271.

" **§286-202 General duties and powers of the director.** The general duties and powers of the director shall be:

- (1) To establish rules promoting the safety of operations, motor vehicle and equipment of motor carriers; provided that the maximum hours of service to be performed by an operator of a motor carrier vehicle shall be determined by the director based on conditions existing in the State or in particular sections of the State and shall be compatible with those prescribed by the Federal Motor Carrier Safety regulations of the United States Department of Transportation.
- (2) To coordinate the various motor carrier safety programs in the State including the formulation of statewide standards as necessary.
- (3) To develop and implement, on a priority basis, a recordkeeping and information system for the motor carrier safety program.
- (4) To develop standards relating to the qualification of motor carrier vehicle drivers.
- (5) To establish standards for continuous driver training and periodic evaluation of the driver performance of motor carrier vehicle drivers.
- (6) To establish standards for motor carrier vehicle safety inspection, motor carrier vehicle inspection stations, and motor carrier vehicle inspection personnel.
- (7) To revise and update the standards relating to motor carrier vehicle maintenance and establish a system for the enforcement of such standards.
- (8) To develop the standards for size and weight of vehicles, including motor carrier vehicles, pursuant to chapter 291.
- (9) To establish standards for the issuance of special permits to carry oversized and overweight loads on the highway.
- (10) To establish standards for the transportation of hazardous materials on the highways.

- (11) To develop comprehensive rules governing the modification of motor carrier vehicles which will at any time be operated upon the highway.
- (12) To review and approve all plans and specifications for construction in the State or modification of motor carrier vehicles which will at any time be operated upon the highway.
- (13) To adopt rules pursuant to chapter 91 necessary for the purposes of this part.
- (14) To investigate all motor carrier vehicle accidents under this part resulting in death of a human being or other accidents as the director determines necessary to advance the motor carrier safety program. [L Sp 1977 1st, c 20, pt of §1; am L 1989, c 320, §6; am L 1990, c 342, §16]

" **§286-202.5 Driver improvement program.** (a) Every employer who employs a commercial motor vehicle driver who drives a motor vehicle with a gross vehicle weight rating in excess of ten thousand pounds shall provide for every such driver a driver improvement program. This program shall provide a system for continuous driver evaluation and annual driver safety courses approved by the director. For drivers with five years of continuous employment with one employer, this requirement shall be at least once every two years. Every job placement center through which a driver who drives a motor vehicle with a gross vehicle weight rating in excess of ten thousand pounds is employed on a casual or sporadic basis, and not as a regularly employed driver for any one employer, shall be responsible for providing the driver improvement program for all its drivers, who drive a motor vehicle with a gross vehicle weight rating in excess of ten thousand pounds. For purposes of this subsection only, "job placement center" means any place where persons may register for purposes of employment, and the dispatching of those persons to various jobs as they become available. Any employer or job placement center that violates this subsection shall be fined not more than \$500.

(b) Every regularly or casually employed driver of a motor vehicle with a gross vehicle weight rating in excess of ten thousand pounds shall attend the driver improvement program provided by the driver's employer or job placement center. The director shall adopt rules pursuant to chapter 91 necessary for the purposes of this subsection, including but not limited to rules governing attendance. Any driver who does not fulfill the appropriate driver improvement attendance requirement shall be fined not more than \$100.

(c) The counties may furnish real property, facilities on that property, and other equipment in furtherance of this section. A county may allow the use of that property or other county property to a third party examiner who has entered into an agreement with the county on terms that it deems proper and reasonable. [L 1989, c 320, §1; am L 1990, c 342, §2; am L 1999, c 46, §2]

" **§286-202.6 Marking of motor carrier vehicles.** (a) In addition to the requirements in 49 Code of Federal Regulations part 390.21, every motor carrier vehicle shall be marked as specified in subsections (b), (c), and (d).

(b) The marking shall display the following information:

- (1) The name or trade name of the motor carrier or company operating the motor carrier vehicle;
- (2) If the name of any person other than the operating motor carrier or company appears on the motor carrier vehicle, the information required by paragraph (1) shall be displayed and preceded by the words "operated by";
- (3) The gross vehicle weight, gross vehicle weight rating, or gross combination weight rating; and
- (4) Other identifying information may be displayed on the motor carrier vehicle if it is not inconsistent with the information required by this subsection.

(c) The marking shall:

- (1) Appear on both sides of the motor carrier vehicle;
- (2) Be in letters that contrast sharply in color with the background on which the letters are placed;
- (3) Be readily legible during daylight hours, from a distance of fifty feet (15.24 meters) while the motor carrier vehicle is stationary; and
- (4) Be kept and maintained in a manner that retains the legibility required by paragraph (3).

(d) The marking may be painted or permanently affixed on the motor carrier vehicle.

(e) A motor carrier or company operating a motor carrier vehicle under a rental agreement having a term in excess of thirty calendar days shall meet the requirements of this section. [L 1997, c 119, §2; am L 2005, c 28, §1; am L 2014, c 142, §2]

" **[§286-202.8] Mudguards; protective devices.** (a) A commercial motor vehicle shall not be operated on the public highways unless the vehicle is equipped with fenders, covers, or other devices, including flaps or splash aprons, to minimize the spray or splash of water or mud to the rear of the vehicle.

(b) Violation of this section shall be subject to a fine of \$50, notwithstanding section 286-206. [L 2005, c 134, pt of §1]

" **§286-203 Enforcement.** For purposes of the enforcement of this part, the director of transportation shall have such powers of enforcement as may be necessary to implement this part. The director may delegate the enforcement of this part to county executive officers. For the purpose of the safety, welfare and health of the general public, and the safe transportation of hazardous materials and waste on any public highway, and the enforcement of this part and of all rules adopted pursuant to this part, the director, persons appointed by the director, and the county executive officers to whom powers of enforcement are delegated, may (1) inspect lands, buildings, freight and equipment of motor carriers, (2) stop and inspect freight and equipment of motor carriers and the military on any public highway, and (3) inspect shipping papers and hazardous waste manifests of motor carriers and persons subject to this part. Every state and county officer charged with enforcement of laws and ordinances shall assist in the enforcement of this part and of all rules adopted pursuant to this part and issue citations for violations as appropriate. [L Sp 1977 1st, c 20, pt of §1; gen ch 1985; am L 1986, c 299, §1]

#### **Cross References**

Transportation of hazardous materials, see §§286-221 to 227.

" **[§286-204] Accounts, records, and reports.** (a) The director may require annual, periodic, or special reports from all motor carriers, prescribe the manner and form in which the reports shall be made, and require from the carriers specific and full, true, and correct answers to all questions which the director may deem necessary for the safety regulation of motor carrier vehicles.

(b) The director may prescribe the forms of any and all records and memoranda to be maintained by motor carriers as related to safety of motor carrier operations. The director or the director's duly authorized representative shall at all reasonable times and places have access to and authority, under the director's or representative's order, to inspect and examine any and all equipment of motor carriers and shall have authority to inspect and copy any and all books, records, memoranda, and other documents as are related to the safety of motor carrier operations.

(c) Each motor carrier operating vehicles in the State shall keep all records and reports required by this section at an office or place of business located within the State. [L Sp 1977 1st, c 20, pt of §1; gen ch 1985]

" **[\$286-204.5] Vehicle identification card.** (a) A motor carrier shall file with the director a form prescribed by the director containing a description of the commercial motor vehicle registered to the motor carrier. There shall be one form per vehicle. The form shall be filed when:

- (1) The original application for a safety clearance is filed with the director;
- (2) A new commercial motor vehicle is placed in service;
- (3) A commercial motor vehicle is withdrawn from service; and
- (4) New state license plates are issued for a commercial motor vehicle; provided that the form shall be filed not more than five days, including weekends and holidays, after the issuance of the plates.

(b) Upon the filing under subsection (a), the director shall issue a motor vehicle identification card for that commercial motor vehicle. The card shall contain information sufficient to identify the owner of the vehicle and other information deemed necessary by the director.

(c) A motor carrier shall inform the director, by filing a form prescribed by the director, of when a commercial motor vehicle registered to the motor carrier is disposed of, transferred, sold, or otherwise taken out of service by that carrier. The motor carrier shall surrender the vehicle identification card to the director with the filing of the form by affixing the card thereto. [L 2005, c 134, pt of §1]

" **[\$286-205] Reports as evidence.** Any report by any motor carrier of any accident occurring in the course of its operation, made pursuant to any requirement of the director or any other lawful authority, and any report by the director or any police department of any such vehicle accident, may be admitted as evidence in any suit or action for damages growing out of any matter mentioned in the report or investigation. [L Sp 1977 1st, c 20, pt of §1]

" **[\$286-206] Penalty.** Unless indicated otherwise, any motor carrier or any agent, employee, or representative thereof, who wilfully and knowingly fails, neglects or refuses to perform any act required by this part or by rules adopted by the director under this part shall be fined not more than \$2,000 for each separate offense. Each date of violation shall constitute a

separate offense. An action to impose or collect the penalty provided in this section shall be considered a civil action. [L Sp 1977 1st, c 20, pt of §1]

" **§286-207 Exemptions, certain vehicles.** This part shall not apply to the following vehicles, if such vehicles are in compliance with safety ordinances and rules of the county in which they operate and other applicable state safety laws and rules:

- (1) Trucks, truck-trailers, trailers, or other nonpassenger carrying equipment having a gross vehicle weight rating of 10,000 pounds or less, except vehicles used in transporting material found by the United States Secretary of Transportation to be hazardous under 49 U.S.C. section 5103 and transported in a quantity requiring placarding under 49 C.F.R., subtitle B, chapter I, subchapter C;
- (2) Taxicabs as described in section 271-5(3)(B);
- (3) Passenger carrying vehicles used by employees solely for their own transportation to, from, and during work;
- (4) Passenger carrying vehicles with a gross vehicle weight of 10,000 pounds or less used in car or van pools to transport less than sixteen individuals for the movement of passengers to and from work;
- (5) A passenger carrying vehicle used for the transportation, without compensation, of persons for personal, recreational, or entertainment purposes;
- (6) A passenger carrying vehicle with a gross vehicle weight rating of 10,000 pounds or less used solely for the transportation, without compensation, of the vehicle owner, the vehicle owner's family or guests; and
- (7) A passenger carrying vehicle with a gross vehicle weight rating of 10,000 pounds or less used for the transportation, without compensation, of persons for the furtherance of their physical or mental rehabilitation or for social welfare activities. [L Sp 1977 1st, c 20, pt of §1; am L 1979, c 119, §3; gen ch 1985; am L 2010, c 14, §1; am L 2014, c 142, §3]

" **[§286-208] Exemptions, vehicles used by farmers.** This part shall not apply to motor vehicles used by a farmer exclusively for the farmer's farm operations or to motor vehicles used by a farmer who only infrequently transports from the place of production to a warehouse, regular market, place of storage, or place of shipment, the farm products of neighboring



farmers in exchange for like or reciprocal services, for farm products, or for a cash consideration not exceeding \$1,500 per year; provided that the transportation of farm produce shall constitute the sole transportation of property for hire or compensation and; provided further that each motor vehicle so used complies with the safety ordinances and rules of the county in which it is operated and other applicable state safety laws and rules. [L Sp 1977 1st, c 20, pt of §1; gen ch 1985]

" **§286-209 Safety inspection of motor carrier vehicles.** (a) Motor carrier vehicles, including but not limited to trucks, truck-tractors, semitrailers, trailers, or pole trailers, having a gross vehicle weight rating of more than ten thousand pounds, motor carrier vehicles having a gross vehicle weight rating of ten thousand pounds or less which transport passengers in the furtherance of a commercial enterprise, including car rental transport vehicles, and motor carrier vehicles used in transporting material found by the United States Secretary of Transportation to be hazardous under 49 U.S.C. section 5103 and transported in a quantity requiring placarding under 49 C.F.R., subtitle B, chapter I, subchapter C, shall be inspected and certified annually.

(b) The director shall adopt rules pursuant to chapter 91 for motor carrier vehicle safety inspections, the issuance of certificates of safety inspection, the affixing of motor carrier vehicle safety inspection decals, and the acceptance of certificates of safety inspection issued in other jurisdictions.

(c) The director shall collect a fee of \$1.50 for each motor carrier vehicle safety inspection decal issued by motor carrier vehicle inspection stations. All moneys collected shall be paid into the state highway fund.

(d) A fee of no more than \$12 shall be charged by a motor carrier inspection station for each safety inspection performed.

(e) For the purposes of this section, "car rental transport vehicles" means motor carrier vehicles used to transport customers to or from car rental sites. [L Sp 1977 1st, c 20, pt of §1; am L 1985, c 246, §1 and c 274, §1; am L 2002, c 138, §2; am L 2005, c 3, §1; am L 2007, c 43, §1; am L 2010, c 14, §2]

" **§286-210 Operation of a motor carrier vehicle without a safety inspection decal.** Whoever operates, permits the operation of, causes to be operated, or parks any motor carrier vehicle on a public highway without a current motor carrier vehicle safety inspection decal, issued under section 286-209, shall be fined \$100 for each day of the violation. [L Sp 1977 1st, c 20, pt of §1; am L 1993, c 214, §9]

" **[\$286-211] Permits to operate official inspection stations.** (a) The director shall issue permits for and furnish instructions and all forms to official inspection stations. The stations shall operate pursuant to standards established by the director.

(b) Application for an official inspection station permit shall be made upon an official form and shall be granted only when the director is satisfied that the station is properly equipped and has competent personnel to make the required inspections. Before issuing a permit, the director shall require the applicant to file proof that the applicant has, in effect, a liability insurance policy, issued to the applicant by an insurance company, authorized to do business in the State, insuring against the liability of the applicant and any of the applicant's employees, in minimum amounts as follows: comprehensive public liability insurance in the amount of \$10,000 for one person and \$20,000 for one accident and comprehensive property damage insurance of \$5,000, provided that the director may, by rules and regulations, set higher limits; provided that the proof of insurance need not be filed by an applicant who inspects only vehicles owned by the applicant; and provided further that the proof of insurance need not be filed by instrumentalities of the United States.

(c) A permit for an official inspection station shall not be assigned or transferred or used at any location other than that designated by the director and every permit shall be posted in a conspicuous place at the location so designated. [L Sp 1977 1st, c 20, pt of §1; gen ch 1985]

" **[\$286-212] Suspension or revocation of permits.** The director shall supervise and cause inspections to be made of official inspection stations and shall suspend or revoke and require the surrender of the permit issued to a station which the director finds is not properly conducting inspections. The director shall maintain and post at the department lists of all stations holding permits and those whose permits have been suspended or revoked. [L Sp 1977 1st, c 20, pt of §1; gen ch 1985]

" **[\$286-213] Improper representation as official inspection station.** Any person who in any manner represents that the business operated at any location is an official inspection station without a permit issued by the director under section 286-211, or any person other than a person operating an inspection station under a permit granted by the director who issues a certificate of inspection shall be fined not more than

\$1,000 or imprisoned not more than one year, or both. [L Sp 1977 1st, c 20, pt of §1]

" **[\$286-214] False certificates.** Any person who makes, issues, or knowingly uses any imitation or counterfeit of an official certificate of inspection, or any person who displays or causes or permits to be displayed upon any vehicle any certificate of inspection knowing the same to be issued for another vehicle or issued without an inspection having been made or issued without authority as provided herein shall be fined not more than \$1,000 or imprisoned not more than one year, or both. [L Sp 1977 1st, c 20, pt of §1]

" **§286-215 Fees and charges.** The director shall establish fair and reasonable fees for applications for approval of plans and specifications for construction or modification of a motor vehicle or class of motor vehicles in Hawaii which will at any time be operated upon the highways as provided in section 286-202(12). [L Sp 1977 1st, c 20, pt of §1; am L 1978, c 159, §5]

" **[\$286-216] Fines, fees and charges.** All moneys collected under this part shall be paid into the state highway fund and shall be expended for the purpose of this part. [L Sp 1977 1st, c 20, pt of §1]

## "PART XII. TRANSPORTATION OF HAZARDOUS MATERIALS

### Note

Part heading amended by L 1996, c 134, §1; am L 2000, c 86, §1.

### Cross References

Environmental response law, see chapter 128D.

Hazardous waste management, see chapter 342J.

**§286-221 Definitions.** As used in this part, unless the context otherwise requires:

"Hazardous material" means a substance or material which has been determined by the United States Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated. The term includes hazardous substances, hazardous wastes, infectious substances, medical wastes, marine pollutants, elevated temperature materials, and

materials that meet the defining criteria for hazard classes and divisions in Title 49, Code of Federal Regulations, Part 173.

"Hazardous materials incident" means an occurrence or likely occurrence or potential of a spill, release, leakage, dumping, or loss of control of a hazardous material during the course of transportation in commerce including loading, unloading, or temporary storage.

"Hazardous substance" means any material, including its mixtures and solutions, defined under Title 49, Code of Federal Regulations, Part 171.

"Hazardous waste" means any material designated in Title 40, Code of Federal Regulations, Part 261 and which are subject to the hazardous waste manifest requirements of Title 40, Code of Federal Regulations, Part 262.

"Infectious substance" means a viable microorganism, or its toxin, which causes or may cause disease in humans and animals, or which is further described as an infectious substance in Title 49, Code of Federal Regulations, Part 173.

"Medical waste" means for transportation purposes, shipments of medical waste material generated in the diagnosis, treatment, or immunization of human beings and animals, in research pertaining thereto, in the production or testing of biologicals, or which are further described as regulated medical waste in Title 49, Code of Federal Regulations, Part 173. [L 1989, c 185, pt of §2; am L 1996, c 134, §2; am L 2000, c 86, §2]

" **§286-222 General powers.** (a) The department of transportation may regulate the transportation of hazardous materials by motor carrier in commerce.

(b) The department shall annually adopt the hazardous material regulations established by the United States Department of Transportation and published in Title 49, Code of Federal Regulations, Parts 107, 171 to 173, inclusive, and Parts 177, 178, and 180. All other rules adopted by the State and political subdivisions thereof shall be consistent therewith.

(c) Any hazardous material which meets the federal and state criteria of a hazardous material must be handled and transported according to the appropriate requirements of the federal hazardous materials regulations and the additional requirements in this part. [L 1989, c 185, pt of §2; am L 1996, c 134, §3; am L 2000, c 86, §3]

" **§286-223 Scope.** (a) The federal rules establish minimum standards and must be complied with when transporting a hazardous material by motor carrier in commerce.

(b) Transport shall be deemed to include any operation incidental to the whole course of carriage by motor carrier from shippers point of origin to final destination, including storage incidental to transportation while under active shipping papers and prior to the hazardous material reaching the ultimate consignee.

(c) No person shall transport any hazardous material outside the confines of the person's facility or other location of storage or use, or offer or deliver any hazardous materials to a motor carrier for transportation in commerce, nor shall any motor carrier accept any hazardous materials for transport, without compliance with the applicable requirements of the hazardous material rules adopted by the department, including those relating to packaging of hazardous materials, marking and labeling of packages, preparation and carriage of shipping papers or manifests, handling, loading, and unloading packages, placarding of the transporting vehicle, training of employees, inspection of motor carrier vehicles, and motor carrier accident and hazardous materials incident reporting.

(d) No person in the course of transportation in commerce, shall spill, dump, deposit, or cause the release of a hazardous material upon a public highway, street, or the surrounding or connecting property, including but not limited to, storm drains, gutters, harbors, waterways, canals, lakes, and ocean shorelines, without immediately taking action to stop the spread of the material or remove the same or cause the same to be removed. If such person fails to comply with this subsection, the governmental agency responsible for the maintenance of the highway, street, or property on which the material was deposited may remove such materials and collect, by civil action, if necessary, the actual cost of the removal operation and repair of damage to the affected facility or property from the person responsible as stated in this subsection. [L 1989, c 185, pt of §2; am L 1996, c 134, §4; am L 2000, c 86, §4]

" **§286-224 Inspections.** (a) Any shipment or transport of hazardous materials by motor vehicle in commerce of which vehicle placarding or a shipping paper or manifest is required by the hazardous materials regulations adopted by the State, is subject to inspection by persons appointed by the director of transportation to enforce the safe transportation of hazardous materials in commerce and by those state and county officers charged with the enforcement of laws and ordinances adopted pursuant to this part.

(b) All carriers and persons that use a highway or street to transport hazardous materials in commerce shall afford the director of transportation, persons designated by the director,

and those persons designated by the county executive officers, reasonable opportunity to enter and inspect freight containers, and motor vehicles, to review and document deficiencies on shipping papers and manifests, and to inspect other places incidental to the transshipment of hazardous materials by motor carrier vehicles. [L 1989, c 185, pt of §2; am L 1996, c 134, §5; am L 2000, c 86, §5]

" **§286-225 Hazardous materials incident reporting.** (a) Any employee of the motor carrier, the driver, handlers, and loaders, and any employees of state and county governments shall report hazardous materials incidents as follows:

- (1) Upon becoming aware of or observing the potential or actual spill, leakage, or loss of control of a hazardous material, shall immediately, or as soon as possible, notify the nearest police or fire department and make a report of the situation. This incident reporting requirement does not relieve a carrier or shipper of the responsibility to notify the United States Department of Transportation, state department of health, or local emergency planning committee of certain hazardous materials incidents.
- (2) Whenever an infectious substance shipment is lost, stolen, or suspected or known to be leaking from its containment packaging, shall immediately, or as soon as possible, notify the state department of health, and the Centers for Disease Control [and Prevention] in Atlanta, Georgia, and make a report of the situation.
- (3) Spillage or loss of control of a regulated medical waste shipment in commerce shall be reported immediately, or as soon as possible to the state department of health.
- (b) Whenever possible, the incident report should include:
  - (1) The name and telephone number of the person calling in the report;
  - (2) The name of the carrier;
  - (3) Type of vehicle involved;
  - (4) Injuries or fatalities connected with the incident, if any;
  - (5) The location and time of the incident;
  - (6) The duration of a chemical release into the environment, if known;
  - (7) A description of hazards involved to include the chemical name or identity of any substance released;

- (8) Hazardous materials classification, markings, and information on labels and placards affixed on packages, containers or vehicles; and
- (9) Emergency actions taken including evacuation to minimize hazardous effects to public health, safety, and property.

(c) A copy of any written notification required under Title 49, Code of Federal Regulations, Part 171 shall be provided to the state director of transportation. [L 1989, c 185, pt of §2; am L 1996, c 134, §6; am L 2000, c 86, §6]

" **§286-226 Routes.** The intrastate shipment of explosives of any quantity that would require placarding of the transporting motor vehicle by the rules adopted pursuant to this part, shall not take place without first giving the police department and the fire department of the county in which the explosives are to be transported a forty-eight hour minimum advance notice. This advance notice shall be in writing and indicate the quantity and type of explosive material being shipped, the date and time of the shipment, and the route over which the explosive shipment will travel. This provision does not apply to the military during the period of an emergency or disaster proclaimed by the President, the governor, or a county mayor. [L 1989, c 185, pt of §2; am L 2014, c 111, §11]

" **[§286-227] Penalty.** (a) Any person who violates this part or any rule adopted pursuant to this part shall be subject to a civil penalty of not more than \$10,000 for each violation. Each day the violation continues shall constitute a separate offense. An action to impose or collect the penalty provided in this section shall be considered a civil action.

(b) Any person who wilfully violates this part shall be subject to a criminal penalty of not more than \$25,000 for each violation, imprisonment for a term not to exceed five years, or both. [L 1989, c 185, pt of §2]

### "PART XIII. COMMERCIAL DRIVER LICENSING

#### Law Journals and Reviews

Intextication: Txtng Whl Drvng. Does the Punishment Fit the Crime? 32 UH L. Rev. 359 (2010).

**§286-231 Definitions.** As used in this part unless the context otherwise requires:

"Commercial driver's license downgrade" means:

- (1) Authorization to change a driver's self-certification pursuant to title 49 Code of Federal Regulations section 383.71, to interstate, but operating exclusively in transportation or operation excepted from the Federal Motor Carrier Safety Regulations as provided in title 49 Code of Federal Regulations sections 390.3(f), 391.2, 391.62, and 398.2(b);
- (2) Authorization to change a driver's self-certification pursuant to title 49 Code of Federal Regulations section 383.71, to intrastate only if the driver qualifies under the State's physical qualification requirements for intrastate only;
- (3) Authorization to change a driver's self-certification pursuant to title 49 Code of Federal Regulations section 383.71, to intrastate, but operating exclusively in transportation or operations excepted from all or part of the state driver qualification requirements; or
- (4) Removing the commercial driver's license privilege from the driver's license.

"Commercial driver's license information system driver record" means the electronic record of an individual commercial driver license driver's status and history stored by the state of record as part of the commercial driver's license information system established under title 49 United States Code section 31309.

"Disqualification" means any of the following three actions:

- (1) The suspension, revocation, or cancellation of a commercial driver's license by the state or jurisdiction of issuance;
- (2) Any withdrawal of a person's privileges to drive a commercial motor vehicle by a state or other jurisdiction as the result of a violation of state or local law relating to motor vehicle traffic control (other than parking, vehicle weight, or vehicle defect violations); or
- (3) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under title 49, Code of Federal Regulations Part 391.

"Driving a commercial motor vehicle while under the influence of an intoxicant" means committing any one or more of the following acts in a commercial motor vehicle:

- (1) Driving a commercial motor vehicle while the person's alcohol concentration is 0.04 or more grams of alcohol per two hundred ten liters of breath or 0.04 or more



grams of alcohol per one hundred milliliters or cubic centimeters of blood;

- (2) Driving under the influence of an intoxicant pursuant to section 291E-61; or
- (3) Refusing to undergo such testing as required by any state or jurisdiction in the enforcement of section 383.51(b) or 392.5(a)(2) of title 49 Code of Federal Regulations.

"Employer" means any person, including the United States, a state or a political subdivision of a state, who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle.

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

"Fatality" means the death of a person as a result of a motor vehicle accident.

"Imminent hazard" means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of such death, illness, injury, or endangerment.

"Noncommercial motor vehicle" means a motor vehicle or combination of motor vehicles not defined by the term "commercial motor vehicle (CMV)" under section 286-2.

"Non-domiciled commercial driver's license" means a commercial driver's license issued by a state under either of the following two conditions:

- (1) To an individual domiciled in a foreign country meeting the requirements of title 49, Code of Federal Regulations section 383.23(b)(1); or
- (2) To an individual domiciled in another state meeting the requirements of title 49, Code of Federal Regulations section 383.23(b)(2).

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

- (1) To an individual domiciled in a foreign country meeting the requirements of title 49 Code of Federal Regulations section 383.23(b)(1); or
- (2) To an individual domiciled in another state meeting the requirements of title 49 Code of Federal Regulations section 383.23(b)(2).

"Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or

local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to Section 386.72, 392.5, 395.13, or 396.9 of title 49, Code of Federal Regulations, or compatible laws, or the North American Uniform Out-of-Service Criteria, which can be obtained from the Commercial Vehicle Safety Alliance.

"School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events, but does not include a bus, as defined under section 286-2, used as a common carrier as defined under section 271-4.

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

- (1) Excessive speeding involving any single offense for any speed of fifteen miles per hour or more above the posted speed limit;
- (2) Reckless driving or driving a commercial motor vehicle in disregard of the safety of persons or property, including but not limited to offenses of driving a commercial motor vehicle in wilful or wanton disregard for the safety of persons or property;
- (3) Improper or erratic traffic lane changes;
- (4) Following a vehicle ahead too closely;
- (5) A violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal traffic accident;
- (6) Driving a commercial motor vehicle without obtaining a commercial learner's permit or a commercial driver's license;
- (7) Driving a commercial motor vehicle without a commercial learner's permit or a commercial driver's license in the driver's possession; provided that this paragraph shall not apply to a citation issued under, or an offense disposed of pursuant to section 286-116(a) or a substantially similar provision of law in another state;
- (8) Driving a commercial motor vehicle without the proper class or endorsements of commercial driver's license or commercial learner's permit for the specific vehicle group being operated or for the passengers or type of cargo being transported;
- (9) Texting while driving in violation of a state or county law or ordinance; or

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

"Tank vehicle" means any commercial vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than one hundred nineteen gallons and an aggregate rated capacity of one thousand gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation with a rated capacity of one thousand gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.

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

"Texting" does not include:

- (1) Reading, selecting, or entering a telephone number, an extension number, or voicemail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a phone call or using voice commands to initiate or receive a telephone call;
- (2) Inputting, selecting, or reading information on a global positioning system or navigation system or pressing a single button to initiate or terminate a voice communication using a mobile telephone; or
- (3) Using a device capable of performing multiple functions, including fleet management systems, dispatching devices, smart phones, citizens band radios, and music players, for a purpose that is not otherwise prohibited. [L 1989, c 320, pt of §2; am L 1990, c 342, §4; am L 1993, c 268, §2; am L 1996, c 135, §§1, 2; am L 2004, c 103, §§1, 3; am L 2011, c 67, §1 and c 121, §1; am L 2012, c 311, §2; am L 2013, c 114, §3]

#### **Note**

Definition of "nonresident commercial driver's license" changed to "non-domiciled commercial driver's license". L 2013, c 114, §3(2).

" **§286-232 Limitation on number of driver's licenses.** No person who drives a commercial motor vehicle may have more than one driver's license. [L 1989, c 320, pt of §2; am L 1990, c 342, §16; am L 1993, c 268, §3]

" **§286-233 Notification requirements.** (a) Any driver of a commercial motor vehicle holding a commercial driver's license or a commercial learner's permit issued by this State who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control in any other state, or federal, provincial, territorial, or municipal laws of Canada or Mexico, other than parking violations, in any type of motor vehicle, shall notify the examiner of drivers in the manner specified by the director within thirty days of the date of conviction. Any driver of a commercial motor vehicle holding a commercial driver's license or a commercial learner's permit issued by this State, who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control in this or any other state, or federal, provincial, territorial, or municipal laws of Canada or Mexico, other than parking violations, in any type of motor vehicle, shall notify the person's current employer in writing of the conviction within thirty days of the date of conviction.

(b) Each commercial driver whose driver's license or permit is suspended, revoked, or canceled by any state, who loses the privilege to drive a commercial motor vehicle in any state for any period, or who is disqualified from driving a commercial motor vehicle for any period, shall notify the person's current employer of the suspension, revocation, or cancellation before the end of the business day following the day the driver received notice of the suspension, revocation, cancellation, or disqualification.

(c) The written notice to the examiner of drivers and current employer as required by subsection (a) shall contain the following information:

- (1) Driver's full name;
- (2) Driver's license number;
- (3) Date of conviction;
- (4) Each specific criminal or other offense, or serious traffic violation of state or local law relating to motor vehicle traffic control, of which the person was convicted, and any suspension, revocation, or cancellation of driving privileges which resulted from that conviction;
- (5) Indication whether the violation was in a commercial motor vehicle;
- (6) Location of offense; and

(7) Driver's signature.

(d) Each person who drives a commercial motor vehicle and applies for employment as a commercial motor vehicle driver shall provide the employer, at the time of the application, with the following information for the ten years preceding the date of application:

(1) A list of the names and addresses of the applicant's previous employers for which the applicant was a driver of a commercial motor vehicle;

(2) The dates between which the applicant drove for each employer; and

(3) The reason for leaving each employer.

The applicant shall certify that all information furnished is true and complete. An employer may require an applicant to provide additional information. [L 1989, c 320, pt of §2; am L 1990, c 342, §5; am L 1993, c 268, §4; am L 2013, c 114, §4]

" **§286-234 Employer responsibilities.** (a) Each employer shall require the applicant to provide the information specified in section 286-233.

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

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

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

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

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

(5) In violation of a federal, state, or local law or regulation pertaining to railroad-highway grade crossings.

(c) Any employer who violates subsection (a) or (b)(1) or (2) shall for a first conviction be fined not more than \$100; for conviction of a second offense committed within one year after the date of the prior conviction, the employer shall be fined not more than \$300; for conviction of a third or subsequent offense committed within two years after the date of

the second conviction, the employer shall be fined not more than \$1,000.

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

(e) Any employer who is convicted of a violation of subsection (b)(4) shall be subject to a civil penalty of not more than \$10,000. [L 1989, c 320, pt of §2; am L 1990, c 342, §16; am L 1992, c 93, §1; am L 1993, c 268, §5; am L 1996, c 135, §3; am L 2002, c 70, §1; am L 2004, c 103, §4; am L 2009, c 46, §1; am L 2013, c 114, §5]

" **§286-235 Commercial driver's license required.** (a) No person shall drive a commercial motor vehicle unless the person holds a valid commercial driver's license and valid applicable endorsements and restrictions for the vehicle the person is driving, except when driving under a commercial learner's permit and accompanied by the holder of a valid commercial driver's license for the vehicle being driven.

(b) No person shall operate a commercial motor vehicle without a commercial driver's license in such person's possession.

(c) No person shall drive a commercial motor vehicle while the person's driver's license or permit is suspended, revoked, or canceled, or while subject to a disqualification.

(d) No person shall drive a commercial motor vehicle in violation of an out-of-service order. [L 1989, c 320, pt of §2; am L 1990, c 342, §6; am L 2009, c 46, §2; am L 2012, c 311, §3; am L 2013, c 114, §6]

" **§286-235.5 Persons exempt from licensure.** The following persons shall be exempt from licensure under this part:

- (1) Individuals who operate commercial motor vehicles for military purposes. This exception is limited to active-duty military personnel, members of the military reserves, members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms), and active-duty United States Coast Guard personnel. This exception is not applicable to United States reserve technicians; and
- (2) Federal, state, and county firefighters, and law enforcement officers who drive federal, state, or county fire trucks, including fire pumpers, aerial ladder trucks, and elevated platform trucks, or

authorized emergency vehicles; provided that they are trained by the federal, state, or county government and the commercial motor vehicles are equipped with audible and visual signals and are not subject to normal traffic regulation. For purposes of this paragraph, "authorized emergency vehicle" shall have the same meaning as in section 291C-1. [L 1990, c 342, pt of §3; am L 1996, c 16, §1; am L 2002, c 29, §1; am L 2006, c 130, §3]

" **§286-236 Commercial driver's license qualification standards.** (a) No person shall be issued a commercial driver's license unless that person meets the qualification standards of title 49 Code of Federal Regulations, part 391, subparts B and E, has passed a knowledge and driving skills test for driving a commercial motor vehicle that complies with minimum federal standards established by federal regulation enumerated in title 49 Code of Federal Regulations, part 383, subparts G and H, is domiciled in this State as defined in title 49 Code of Federal Regulations, part 383.5, and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act of 1986, Public Law 99-570, title XII, in addition to other requirements imposed by state law or federal regulation. The tests shall be prescribed by the director and administered by the respective county examiner of drivers. The test examiners shall communicate with the applicant only in English during the skills test. As of January 30, 2012, the examiner of drivers shall verify that the medical certification status of a driver who self-certified according to title 49 Code of Federal Regulations section 383.71(a)(1)(ii)(A), non-excepted interstate, is certified. If a driver submits a current medical examiner's certificate, the examiner of drivers shall date-stamp the certificate and post all required information to the commercial driver's license information system pursuant to title 49 Code of Federal Regulations section 383.73(a)(5) and in accordance with title 49 Code of Federal Regulations section 383.73(j). A person who is not physically qualified to drive under title 49 Code of Federal Regulations section 391.41(b)(1), (2), or (3) and who is otherwise qualified to drive a motor vehicle may be granted an intrastate waiver by the director. The process for granting intrastate waivers shall be the same as that for interstate waivers in title 49 Code of Federal Regulations section 391.49, except that the intrastate waiver requests shall be submitted to the director; provided that the director shall adopt rules under chapter 91 to establish a screening process, including approval by a licensed physician, for granting an

intrastate waiver to persons who are not physically qualified under title 49 Code of Federal Regulations section 391.41(b)(3).

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

(c) A commercial driver's license or commercial learner's permit, including a provisional or temporary license or permit, shall not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver's license is suspended, revoked, or canceled in any state; or while the person holds a driver's license issued by any other state unless the person first surrenders that license.

(d) A commercial learner's permit may be issued to an individual who holds a valid driver's license, is at least eighteen years of age, meets the qualification standards of title 49 Code of Federal Regulations, part 391, subparts B and E, and has passed the written tests required for the desired class of a commercial driver's license.

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

(f) The examiner of drivers may waive the knowledge and skills tests specified in this section for any person who is at least twenty-one years of age and who possesses a valid commercial driver's license issued by any state of the United States, Mexico, or a province of Canada that issues licenses in accordance with the minimum federal standards for the issuance of commercial driver's licenses. The examiner of drivers shall accept the test scores of a Hawaii commercial learner's permit holder who completes training in another state in the United States and is tested in compliance with federal motor carrier safety regulations by that state in association with the



training. The testing state shall electronically transmit in a secure manner the skills test results directly to the examiner of drivers, and if the applicant passed, and meets all other requirements, a Hawaii commercial driver's license shall be issued. To retain a hazardous materials endorsement, the applicant shall pass the knowledge test for a hazardous materials endorsement and be determined by the federal Transportation Security Administration not to pose a security risk warranting denial of the endorsement.

(g) Every applicant shall successfully complete the commercial driver's license general knowledge test before being issued a commercial learner's permit. A driver holding a valid commercial driver's license who seeks an upgrade for which a skills test is required shall also pass the appropriate knowledge test prior to obtaining a commercial learner's permit. [L 1989, c 320, pt of §2; am L 1990, c 342, §7; am L 1995, c 114, §§1, 2; am L 2003, c 18, §1, c 32, §1, and c 46, §1; am L 2004, c 103, §5; am L 2006, c 130, §4; am L 2011, c 121, §2; am L 2013, c 114, §7; am L 2014, c 72, §1]

" **§286-236.5 Renumbered as §286-102.3.**

" **§286-237 REPEALED.** L 2006, c 130, §11.

" **§286-238 Application for commercial driver's license [or commercial learner's permit].** (a) The application for a commercial driver's license or commercial learner's permit shall include the following with respect to the applicant:

- (1) Certifications including those required by title 49 Code of Federal Regulations section 383.71(a), except that this certification applies to both intrastate and interstate drivers;
- (2) The names of all states where the applicant has previously been licensed to drive any type of motor vehicle during the previous ten years; and
- (3) Any other information required by section 286-111.

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

(b) When a licensee's name, mailing, business, or residence address is changed, a notification of the change shall be given as provided in section 286-116.5.

(c) No person who has been domiciled in this State for thirty days or more may drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction. [L 1989, c 320, pt of §2; am L 1990, c 342, §8; am

L 2003, c 46, §2; am L 2004, c 103, §6; am L 2013, c 114, §8; am L 2014, c 72, §2]

" **§286-238.2 Commercial learner's permit.** (a) A commercial learner's permit shall be tamperproof; be marked with the words "commercial learner's permit" or "CLP" displayed prominently; include a statement that it is not valid for driving a commercial motor vehicle unless presented with the underlying commercial driver's license or non-commercial driver's license; and shall include but not be limited to the following with respect to the licensee:

- (1) The full name and current mailing, residential, and business addresses;
- (2) A physical description including sex and height;
- (3) Date of birth;
- (4) Signature;
- (5) The date of issuance and the date of expiration of the permit; and
- (6) The driver's state license number.

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

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

- (1) Category A - Any combination of vehicles with a gross combination weight rating of twenty-six thousand one pounds or more; provided that the gross vehicle weight rating of the vehicles being towed is in excess of ten thousand pounds;
- (2) Category B - Any single vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more, or any such vehicle towing a vehicle not in excess of ten thousand pounds; and
- (3) Category C - Any single vehicle or combination of vehicles that meets neither the definition of category A nor that of category B, but that is either:
  - (A) Designed to transport sixteen or more passengers; or
  - (B) Used in the transportation of hazardous materials that require the vehicle to comply with title 49 Code of Federal Regulations, part 172, subpart F.

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

- (1) "P" - Authorizes driving passenger carrying vehicles; a commercial learner's permit holder with a "P" endorsement is prohibited from operating a commercial motor vehicle carrying passengers, other than federal or state auditors and inspectors, test examiners,

- other trainees, and the commercial driver's license holder accompanying the commercial learner's permit holder; this endorsement is vehicle class specific;
- (2) "N" - Authorizes driving tank vehicles; a commercial learner's permit holder with an "N" endorsement may only operate with an empty tank vehicle and is prohibited from operating any tank vehicle that previously contained hazardous materials that has not been purged of all residue;
  - (3) "S" - Authorizes driving school buses; a commercial learner's permit holder with an "S" endorsement is prohibited from operating a commercial motor vehicle carrying passengers, other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the commercial learner's permit holder; this endorsement is vehicle class specific;
  - (4) "P" - Restricts the driver from carrying passengers other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the commercial learner's permit holder; or
  - (5) "X" - Restricts the driver from carrying cargo in a commercial motor vehicle tank and prohibits operating any tank vehicle that previously contained hazardous materials that has not been purged of any residue.

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

(e) Before issuing a commercial learner's permit, the examiner of drivers shall complete a check of the applicant's driving record as provided in section 286-239(d) or (g). [L 2013, c 114, §1; am L 2014, c 72, §3]

" **§286-238.5 REPEALED.** L 2014, c 72, §8.

" **§286-239 Commercial driver's license.** (a) Commercial driver's licenses may be issued with the following categories:

- (1) Category A - Any combination of vehicles with a gross combination weight rating of twenty-six thousand one pounds or more; provided that the gross vehicle weight rating of the vehicles being towed is in excess of ten thousand pounds;

- (2) Category B - Any single vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more, or any such vehicle towing a vehicle not in excess of ten thousand pounds; and
- (3) Category C - Any single vehicle or combination of vehicles that meets neither the definition of category A nor that of category B, but that is either:
  - (A) Designed to transport sixteen or more passengers, including the driver; or
  - (B) Used in the transportation of hazardous materials which requires the vehicle to comply with title 49 Code of Federal Regulations part 172, subpart F.

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

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

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

(d) Before issuing a commercial driver's license, the examiner of drivers shall complete a check of the applicant's driving record to determine whether the applicant is subject to any disqualification under section 286-240, or any license suspension, revocation, or cancellation under state law, and whether the applicant has a driver's license from more than one state or jurisdiction. The record check shall be made no earlier than twenty-four hours prior to the initial issuance or transfer and no sooner than ten days before renewals and upgrades of a commercial driver's license. The record check shall include but is not limited to the following:

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

(e) Within ten days after issuing a commercial driver's license, the examiner of drivers, in the following situations, shall provide the operator of the commercial driver's license information system with all information obtained by the examiner that is necessary to identify the licensee:

- (1) The issuance of each commercial driver's license;
- (2) The notation of any changes in driver identification information; and
- (3) The notation of any changes to the driver's driving record relating to the transfer of a commercial driver's license from one state to another.

(f) Commercial driver's licenses shall expire as follows:

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

(2) All other initial commercial driver's licenses shall be valid for not more than an eight-year period, expiring on the driver's birthday. All other renewed licenses shall be valid for not more than an eight-year period from the expiration date of the previous valid license. With the exception of a commercial driver's license with a hazardous materials endorsement, the commercial driver's license shall expire on the next birthday of the licensee occurring not more than eight years after the date of issuance of the license unless sooner revoked, suspended, or canceled; provided that, unless sooner revoked, suspended, or canceled, the license shall expire on the second birthday of the licensee following the issuance of the license if at that time the licensee is seventy-two years of age or older.

(g) When applying for renewal of a commercial driver's license, the applicant shall complete the required application form and provide updated information and required certifications. If the applicant desires to retain a hazardous materials endorsement, the knowledge test for a hazardous materials endorsement shall also be taken and passed by the applicant. The examiner of drivers shall complete a check of the applicant's driving record as required under subsection (d). [L 1989, c 320, pt of §2; am L 1990, c 342, §9; am L 1995, c 114, §3; am L 1998, c 93, §2; am L 2003, c 15, §1; am L 2004, c 103, §7; am L 2006, c 23, §1 and c 130, §5; am L 2010, c 83, §1; am L 2011, c 121, §3; am L 2013, c 114, §9; am L 2014, c 72, §4]

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

(b) Any commercial driver's license not reactivated under subsection (a) within one year of the indicated date of expiration shall be invalid. The examiner of drivers shall

examine an applicant whose commercial driver's license has been declared invalid under this subsection in accordance with the licensing procedures established under sections 286-236 and 286-239. [L 1998, c 93, §1; am L 2014, c 72, §5]

" **§286-240 Disqualification, cancellation, and downgrade.**

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

- (1) Driving a motor vehicle under the influence of alcohol, a controlled substance, or any drug that impairs driving ability;
- (2) Driving a commercial motor vehicle while the alcohol concentration of the driver's blood is 0.04 or more grams of alcohol per two hundred ten liters of breath or 0.04 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood;
- (3) Refusing to submit to a test to determine the driver's alcohol concentration while driving a motor vehicle as required under sections 286-243 and 291E-11;
- (4) Using a motor vehicle in the commission of any felony;
- (5) Leaving the scene of an accident involving the motor vehicle driven by the person;
- (6) Unlawful transportation, possession, or use of a controlled substance while on duty;
- (7) Driving a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license or commercial learner's permit is revoked, suspended, or canceled, or the driver is otherwise disqualified from operating a commercial motor vehicle; or
- (8) Causing a fatality through the operation of a commercial motor vehicle, including through the commission of the crimes of manslaughter and negligent homicide in any degree.

(b) The examiner of drivers shall disqualify any person for a period of not less than three years for any conviction of a violation of any offense listed in subsection (a) that is committed while a hazardous material required to be placarded under title 49 Code of Federal Regulations, part 172, subpart F, is being transported.

(c) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for life if the person is convicted two or more times for any of the offenses listed in subsection (a).

(d) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for life if the person uses a motor vehicle in the commission of any felony involving the manufacturing, distributing, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

(e) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for a period of not less than sixty days if the person is convicted of two serious traffic violations, or one hundred twenty days if the person is convicted of three serious traffic violations; provided that the violations are committed in a commercial motor vehicle and arise from separate incidents occurring within a three-year period. The one hundred twenty-day disqualification period required for a third conviction within three years of a serious traffic violation, as defined in section 286-231, shall be in addition to any other previously imposed period of disqualification. The disqualification periods specified in this subsection shall also apply to offenses committed while operating a noncommercial motor vehicle only if the conviction for the offense results in the revocation, cancellation, or suspension of the driver's license.

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

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

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



title 49 Code of Federal Regulations, part 172, subpart F, or designed to transport sixteen or more occupants including the driver; provided that each violation arises from separate incidents occurring within a ten-year period.

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

- (1) For all drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;
- (2) For all drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;
- (3) For all drivers who are always required to stop, failing to stop before driving onto the crossing;
- (4) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;
- (5) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing; or
- (6) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(j) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle if the driver's driving is determined to constitute an imminent hazard, as defined in section 286-231 and in accordance with the provisions of title 49 Code of Federal Regulations section 383.52.

(k) Beginning January 30, 2014, if a driver fails to provide the examiner of drivers with the certification required under title 49 Code of Federal Regulations section 383.71(a)(1)(ii) or a current medical examiner's certificate if the driver self-certifies according to title 49 Code of Federal Regulations section 383.71(a)(1)(ii)(A) that the driver is operating in non-excepted interstate commerce as required by title 49 Code of Federal Regulations section 383.71(h), the examiner of drivers shall mark the commercial driver's license information system driver record as not-certified and initiate a commercial driver's license downgrade. [L 1989, c 320, pt of §2; am L 1990, c 342, §10; am L 1995, c 114, §4; am L 2002, c 70,

§2; am L 2004, c 103, §8; am L 2006, c 130, §6; am L 2010, c 15, §1; am L 2011, c 67, §2 and c 121, §4; am L 2013, c 114, §10]

" **§286-241 Notification of disqualification, suspension, revocation, cancellation, marking medical certification status as not-certified, or downgrading of commercial driver's licenses or permits.** (a) After disqualifying a person, or suspending, revoking, canceling, or marking a medical certification status as not-certified for a commercial driver's license or a commercial learner's permit, the examiner of drivers shall update all records to reflect that action within ten days. Any disqualification imposed in accordance with section 286-240(j) and transmitted by the Federal Motor Carrier Safety Administration shall become a part of the driving record. After suspending, revoking, or canceling a [non-domiciled] commercial driver's license or commercial learner's permit, the examiner of drivers shall notify the licensing authority of the state that issued the commercial driver's license or commercial learner's permit within ten days. The notification shall include information regarding any disqualification and the violation or violations that resulted in the disqualification, revocation, suspension, or cancellation.

(b) Beginning January 30, 2012, the examiner of drivers, within ten calendar days of the expiration of a commercial driver's license driver's medical certification status or the expiration or rescission of a medical variance, shall change the medical certification status of that driver to not-certified.

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

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

- (1) Notify the commercial driver's license holder of the holder's not-certified medical certification status and that the commercial driver's license privilege will be removed from the driver's license unless the driver submits a current medical certificate or medical variance; and
- (2) Initiate procedures for downgrading the license; provided that the commercial driver's license

downgrade shall be completed and recorded within sixty days of the driver's medical certification status becoming not-certified to operate a commercial motor vehicle.

(e) Beginning January 30, 2014, if a driver fails to provide the examiner of drivers with the certification required by title 49 Code of Federal Regulations section 383.71(a)(1)(ii) or a current medical examiner's certificate if the driver self-certifies according to title 49 Code of Federal Regulations section 383.71(a)(1)(ii)(A) that the driver is operating in non-excepted interstate commerce as required by title 49 Code of Federal Regulations section 383.71(h) the examiner of drivers shall mark the commercial driver's license information system driver record as not-certified and initiate a commercial driver's license downgrade. [L 1989, c 320, pt of §2; am L 1990, c 342, §14; am L 1995, c 114, §5; am L 2004, c 103, §9; am L 2006, c 130, §7; am L 2011, c 121, §5; am L 2013, c 114, §11]

" **§286-241.4 Authority of examiner of drivers to suspend, revoke, cancel, mark the medical certification status as not-certified, or downgrade commercial driver's license or permit.**

(a) The examiner of drivers may suspend, revoke, cancel, mark the medical certification status as not-certified, or downgrade any commercial driver's license or commercial learner's permit without a hearing when the examiner of drivers has probable cause to believe that the licensee or permittee is disqualified under section 286-240.

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

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

(d) Unless otherwise provided by law, the licensing authority shall reinstate, renew, or approve the license only upon receipt of an authorization from the child support enforcement agency, the office of child support hearings, or the family court. [L 1990, c 342, pt of §3; am L 1995, c 114, §6; am

L 1997, c 293, §13; am L 2009, c 46, §3; am L 2011, c 121, §6; am L 2013, c 114, §12]

" **§286-241.5 Notification and hearing.** When the examiner of drivers suspends, revokes, or cancels a commercial driver's license or a commercial learner's permit under section 286-241.4(a), the examiner of drivers shall immediately notify the licensee or permittee and afford the licensee or permittee an opportunity for a hearing. [L 1990, c 342, pt of §3; am L 1997, c 293, §14; am L 2013, c 114, §13]

" **[§286-241.6] Appeal to circuit court.** Any suspension, revocation, or cancellation of a commercial driver's license under section 286-241.4 may be appealed to the circuit court in which the applicant or licensee resides by filing a notice of appeal in that court within thirty days after being notified of the suspension, revocation, or cancellation. The appeal shall not operate as a stay to the order or decision appealed from. The appeal shall be subject to procedures and rules as may be prescribed by the court and the decision of the court shall be final except as otherwise provided in chapter 91. [L 1990, c 342, pt of §3]

" **§286-242 Commercial drivers prohibited from operating with any alcohol in their body.** (a) Notwithstanding any other provision of this chapter, a person may not drive a commercial motor vehicle while having any alcohol in that person's body.

(b) A person who drives a commercial motor vehicle with an alcohol concentration of 0.01 or more grams of alcohol per two hundred ten liters of breath or with 0.01 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood or who refuses to take a test as provided by section 286-243 shall be issued a twenty-four-hour out-of-service order. The driver shall also be placed out-of-service for twenty-four hours if the results of a blood test are not immediately available.

(c) It is unlawful for any person with an alcohol concentration of 0.04 or more grams of alcohol per two hundred ten liters of breath or with 0.04 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood to drive a "commercial motor vehicle", as defined in section 286-2. Any person who violates this provision shall be subject to the penalties as provided in section 286-249. [L 1989, c 320, pt of §2; am L 1990, c 342, §11; am L 1995, c 114, §7; am L 2006, c 130, §8; am L 2011, c 67, §3]

" **§286-243 Implied consent requirements for commercial motor vehicle drivers.** (a) A person who drives a commercial motor vehicle within this State is deemed to have given consent to submit to a test or tests, approved by the director of health, of that person's blood or breath for the purpose of determining that person's alcohol concentration or the presence of controlled substances, or both.

(b) A test or tests may be administered at the direction of a law enforcement officer who, after lawfully stopping or detaining the commercial motor vehicle driver, has probable cause to believe that the driver was driving a commercial motor vehicle while having in the person's body alcohol, a controlled substance, or any drug which impairs driving.

(c) A person requested to submit to a test as provided in subsection (a) shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test will result in:

- (1) The officer immediately issuing a twenty-four hour out-of-service order under section 286-242; and
- (2) The person being disqualified from operating a commercial motor vehicle for at least a one-year period under section 286-240.

(d) If the driver refuses testing, or submits to a test that indicates an alcohol concentration of 0.04 or more grams of alcohol per two hundred ten liters of breath or 0.04 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood, the law enforcement officer shall submit an affidavit to a district judge of the circuit in which the driver was stopped or detained stating that the test was authorized pursuant to subsection (a) and that the driver refused to submit to testing, or submitted to a test that indicates an alcohol concentration of 0.04 or more grams of alcohol per two hundred ten liters of breath or 0.04 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood.

(e) A hearing to determine the truth and correctness of an affidavit of a law enforcement officer submitted under subsection (d) shall be scheduled to commence before a district judge within twenty days after the affidavit is filed or as soon thereafter as is practicable.

The State shall be represented at the hearing by the prosecuting attorney of the county in which the alleged violation occurred. The district judge shall hear and determine:

- (1) Whether the law enforcement officer who stopped or detained the driver had probable cause to believe that the driver had been either driving or in actual

- physical control of a commercial motor vehicle, while having any alcohol in the driver's body;
- (2) Whether the driver was lawfully stopped or detained;
  - (3) Whether the law enforcement officer informed the driver of the sanctions of section 286-240;
  - (4) Whether the driver submitted to a test or tests of the driver's breath or blood or refused to be tested; and
  - (5) If the driver submitted to a test or tests, whether the driver's alcohol concentration was 0.04 or more grams of alcohol per two hundred ten liters of breath or 0.04 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood.

The amount of alcohol found in the driver's blood within three hours after the time of the alleged violation as shown by chemical analysis or other analytical techniques of the defendant's blood or breath shall be competent evidence that the defendant was under the influence of intoxicating liquor at the time of the alleged violation. Nothing in this section shall be construed as limiting the introduction of relevant evidence of a person's blood alcohol content obtained more than three hours after an alleged violation; provided that the evidence is offered in compliance with the Hawaii rules of evidence. If the judge finds the statements contained in the affidavit are true, the judge shall disqualify the driver from driving a commercial motor vehicle as provided by section 286-240. [L 1989, c 320, pt of §2; am L 1990, c 342, §12; am L 1993, c 268, §7; am L 2011, c 67, §4]

" **§286-244 Notification of traffic convictions.** (a) Whenever a person who holds a commercial driver's license or a commercial learner's permit from another state is convicted of a violation of any state or county law relating to motor vehicle traffic control, other than a parking violation, in any type of vehicle, the examiner of drivers shall notify the licensing or permitting entity in the state where the driver is licensed or permitted of this conviction within the time period specified in subsection (c).

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

(c) The notification of a traffic violation conviction shall be made within thirty days of the conviction. Beginning

on September 30, 2008, the notification shall be made within ten days of the conviction. [L 1989, c 320, pt of §2; am L 1990, c 342, §13; am L 2004, c 103, §10; am L 2013, c 114, §14]

" **§286-245 Driving record information to be recorded and furnished.** (a) Whenever a person is convicted of a moving traffic violation based on a statute, ordinance, or rule, fails to appear for a hearing, trial, or other court or administrative proceeding on the moving traffic violation, or fails to pay a fine or court cost ordered for a moving violation, the state judiciary shall forward to the examiner of drivers the record of the conviction. The record of conviction shall include whether the offender was operating a commercial motor vehicle at the time of the offense, whether the offender was transporting hazardous materials requiring placarding under title 49 Code of Federal Regulations part 172, subpart F, the citation date, the conviction date, the citation number, the court in which the conviction occurred, and the offenses for which the person has been convicted. No record of conviction transmitted and maintained in the statewide traffic records system shall be used for purposes other than the licensing of drivers, including any record of:

- (1) Driving a motor vehicle under the influence of alcohol, a controlled substance, or any drug that impairs driving ability;
- (2) Driving a commercial motor vehicle while the alcohol concentration of the driver's blood is 0.04 or more grams of alcohol per two hundred ten liters of breath or 0.04 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood;
- (3) Refusing to submit to a test to determine the driver's alcohol concentration while driving a motor vehicle as required under sections 286-243 and 291E-11;
- (4) Using a motor vehicle in the commission of any felony;
- (5) Leaving the scene of an accident involving the motor vehicle driven by the person;
- (6) Unlawful transportation, possession, or use of a controlled substance while on duty;
- (7) Driving a commercial motor vehicle if, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial learner's permit or commercial driver's license has been revoked, suspended, or canceled, or the driver has been otherwise disqualified from operating a commercial motor vehicle; or
- (8) Causing a fatality through the operation of a commercial motor vehicle, including in the commission

of the crimes of manslaughter and negligent homicide in any degree.

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

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

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

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

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

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

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

(e) All convictions, disqualifications, and other licensing actions for violations shall be retained on each driver's record for at least three years or longer if required under title 49 Code of Federal Regulations section 384.231(d).

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

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



- (2) The Secretary of Transportation may receive all information regarding any driver's record;
- (3) A driver may receive only information related to that driver's record; and
- (4) A motor carrier employer or prospective motor carrier employer may receive all information regarding an employee driver's driving record, or the driving record of a prospective employee driver; provided that the request is made by the driver.

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

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

- (1) Post on the commercial driver's license information system and maintain as part of the driver's record the driver's self-certification of type of driving under title 49 Code of Federal Regulations section 383.71(a)(1)(ii);
- (2) Retain for at least three years after the date of issuance the original or a copy of the medical certificate of any driver required to provide documentation of physical qualification;
- (3) Post within ten calendar days the information from the medical examiner's certificate to the commercial driver's license information system driver record, including:
  - (A) The medical examiner's name;
  - (B) The medical examiner's telephone number;
  - (C) The date of issuance of the medical examiner's certificate;
  - (D) The medical examiner's license number and the state that issued it;
  - (E) The medical examiner's number issued by the national registry of medical examiners as required under title 49 United States Code section 31149(d);
  - (F) The driver's medical certification status as certified or not-certified;

- (G) The expiration date of the medical examiner's certificate;
  - (H) The existence of any medical variance on the medical certificate, such as an exemption or skill performance evaluation;
  - (I) Any restrictions including corrective lenses, hearing aids, or a requirement to have possession of an exemption letter or skill performance evaluation certificate while on duty; and
  - (J) The date the medical examiner's certificate information was posted to the commercial driver's license information system driver record; and
- (4) Record the commercial driver's license downgrade within sixty days of the driver's medical certification status becoming not-certified to operate a commercial driver's license. [L 1989, c 320, pt of §2; am L 1990, c 342, §15; am L 1993, c 268, §8; am L 1995, c 114, §8; am L 2004, c 103, §11; am L 2006, c 130, §9; am L 2011, c 121, §7; am L 2013, c 114, §15]

" **§286-246 Authority to make rules.** The director may adopt rules under chapter 91 necessary to carry out this part. [L 1989, c 320, pt of §2; am L 1990, c 342, §16]

" **§286-247 Authority to enter agreements.** The director may enter into or make agreements, arrangements, or declarations to carry out the purposes of this part. [L 1989, c 320, pt of §2; am L 1990, c 342, §16]

" **§286-248 Reciprocity.** Notwithstanding any law to the contrary, a person may drive a commercial motor vehicle if the person has a commercial driver's license or a non-domiciled commercial learner's permit issued by any state, Mexico, or province or territory of Canada that issues licenses in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver's licenses, for training purposes, and is accompanied by the holder of a valid commercial driver's license for the vehicle being driven, if the person's driver's license or commercial learner's permit is not suspended, revoked, or canceled; and if the person is not disqualified from driving a commercial motor vehicle, or subject to an out-of-service order. [L 1989, c 320, pt of §2; am L 1990, c 342, §16; am L 1993, c 268, §9; am L 2013, c 114, §16]

" **§286-249 Penalty.** (a) Any person who drives a commercial motor vehicle in the State without a valid commercial driver's license or commercial learner's permit, or while the person's

driving privileges are suspended, revoked, or canceled, or while disqualified from driving a commercial motor vehicle, shall be:

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

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

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

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

(d) Notwithstanding subsection (a)(2), any person convicted under or found in violation of section 286-242(c) shall be fined not more than \$500. [L 1990, c 342, pt of §3; am L 1995, c 114, §9; am L 2004, c 103, §12; am L 2009, c 46, §4; am L 2013, c 114, §17]

**"PART XIV. ADMINISTRATIVE REVOCATION OF DRIVER'S LICENSE  
AND MOTOR VEHICLE REGISTRATION--REPEALED**

**§§286-251 to 266 REPEALED. L 2000, c 189, §29.**

**Cross References**

For present provisions, see chapter 291E.

**"[PART XV.] INTERISLAND SHIPPING OF VEHICLES**

**§286-271 Interisland shipping of vehicles; proof required.**

(a) Except as provided in subsection (b), a legal owner of a vehicle shall not ship that vehicle interisland in this State unless the legal owner first presents to the carrier the legal owner's current certificate of registration showing that the person is the registered owner of the vehicle, identification, and proof of motor vehicle insurance. If the registered owner of the vehicle is not the legal owner of the vehicle, the registered owner shall present to the carrier, the registered owner's current certificate of registration, identification, and proof of motor vehicle insurance. Duplicate copies of the current registration and proof of motor vehicle insurance shall be acceptable for commercial vehicles as defined in section 286-47(3)(C). An authorized agent of the legal or registered owner

may ship the vehicle by presenting the current certificate of registration, identification, proof of motor vehicle insurance, and a notarized letter from the registered or legal owner authorizing the shipment. For an unrecorded owner pending a lawful transfer, a certificate of ownership signed by the previous owner may be submitted for the current certificate of registration for a vehicle purchased within thirty days of shipping. A facsimile of proof of motor vehicle insurance from an insurance company may be accepted for a vehicle purchased within thirty days of shipping. Presentation of proof of motor vehicle insurance shall not be required for:

- (1) Unlicensed propelled vehicles that are not intended for on-road use;
- (2) New unregistered vehicles shipped with a bill of lading; or
- (3) Vehicles owned by the federal, state, or county government.

(b) A legal owner of a damaged vehicle shall not ship that vehicle interisland in this State for repair, disposal, or salvage unless the legal owner first presents to the carrier the legal owner's current certificate of registration showing that the person is the registered owner of the vehicle or a car dealer's license. For an unrecorded owner pending a lawful transfer, a certificate of ownership signed by the previous owner may be acceptable for a vehicle purchased within thirty days of shipping. A registered owner of the vehicle who is not the legal owner of the vehicle must present a current certificate of registration.

(c) Any legal or registered owner who violates this section shall be fined not more than \$100.

(d) The carrier shall record by physical inspection the vehicle identification number (VIN) of the vehicle and maintain a record of the transporting of the vehicle along with the description of the vehicle for a period of not less than three years.

- (e) This section shall not apply to:
- (1) Any motor vehicle rental company as defined in section 431:9A-141 that periodically ships in quantities of ten vehicles or more;
  - (2) Licensed dealers who periodically ship in quantities of ten vehicles or more, or whose primary business is the auction of insurance salvage vehicles;
  - (3) Except for a lessee of a rental motor vehicle under paragraph (4), drivers of vehicles transported by any water carrier authorized by the public utilities commission to transport vehicles interisland; provided that the driver presents identification, a current

certificate of registration for the vehicle, and proof of motor vehicle insurance. The interisland water carrier shall keep a record of transporting the vehicle by recording the vehicle identification number and retaining the information for three years after the date of travel; or

- (4) A lessee of a rental motor vehicle; provided that:
  - (A) The rental motor vehicle is transported by any water carrier authorized by the public utilities commission to transport vehicles interisland;
  - (B) The water carrier has a written agreement with the owner of the rental motor vehicle; and
  - (C) The water carrier records and retains the information required under subsections (d) and (f).

For purposes of this subsection, "lessee" and "rental motor vehicle" have the same meanings as those terms are defined in section 437D-3.

(f) The records maintained as required by this section and all other records and receipts relating to the transportation of vehicles shall be available for inspection by the federal, state, or county law enforcement agencies, and financial institutions during normal business hours. [L 1994, c 170, §1; am L 1995, c 128, §2; am L 1997, c 251, §9; am L 1998, c 95, §2; am L 2002, c 23, §1; am L 2003, c 26, §3; am L 2008, c 66, §1; am L 2009, c 47, §2]

## **"[PART XVI.] CIVIL IDENTIFICATION CARDS**

### **Note**

L 2012, c 310, §10 provides:

"SECTION 10. To provide for the transition to issuance of civil identification cards by the examiner of drivers, all valid and unexpired civil identification cards issued by the department of the attorney general up to and including December 31, 2012, shall remain valid for all purposes until their stated expiration date."

Working group on documentation for state civil identification card; reports to 2016-2017 legislature (dissolved on June 30, 2017). L 2015, c 243.

### **Revision Note**

This part was enacted as subpart B to part VI but was renumbered as part XVI pursuant to §23G-15.

Throughout this part, "part" substituted for "subpart" and "part VI and this part" substituted for "part".

**[\$286-301] Issuance of identification card or temporary card.** (a) To obtain an identification card from the examiner of drivers, an individual shall complete an application pursuant to section 286-303.

(b) The examiner of drivers, upon receipt of the application by any individual who is a resident or a temporary resident of this State, shall issue an identification card to that individual upon receipt of any appropriate fee established pursuant to section 286-309.

(c) The identification card shall be similar in size, shape, and design to a driver's license, but shall not entitle the individual to whom it is issued to operate a motor vehicle.

(d) The issuance of an identification card pursuant to this section shall not place upon the State of Hawaii or any agency any liability for the misuse or the acceptance of the identification card as valid identification, which shall be left entirely to the discretion of any individual to whom such card is presented. [L 2012, c 310, pt of §2]

" **[\$286-302] Oaths and investigations.** The examiner of drivers and each authorized subordinate may administer oaths and require and take oral or written statements under oath of any individual in connection with any information required under this part or any rule under part VI and this part. [L 2012, c 310, pt of §2]

" **§286-303 Application for identification card.** (a) Application for the identification card shall be made in person by any adult or minor. The minimum age for minors to obtain an identification card shall be ten years of age. In the case of a minor under the age of fourteen years, the application shall be made on the minor's behalf by the parent, or by another individual in loco parentis of the minor who can provide proof of guardianship. In the case of an incompetent individual, the application shall be made by the individual having the custody or control of or maintaining the incompetent individual.

(b) Application for renewal of an identification card issued after November 1, 1998, for an individual eighty years of age or older may be done by mailing in a completed application and fee, if there is no change in name and citizenship status. The director shall adopt rules to allow for renewal by mail for individuals with physical or intellectual disabilities for whom application in person presents a serious burden.

(c) Every application for an identification card or duplicate of an identification card shall be made on a form developed by the director and furnished by the examiner of drivers, signed by the applicant, and signed by the applicant's parent or guardian if the applicant is under eighteen years of age. The application shall contain the following information:

- (1) Name and complete address, including the number and street name, of the applicant's permanent residence;
- (2) The applicant's occupation and any pertinent data relating thereto;
- (3) The applicant's citizenship status;
- (4) The applicant's veteran status if applicable and desired by the applicant;
- (5) The applicant's date and place of birth;
- (6) General description of the applicant, including the applicant's gender, height, weight, hair color, and eye color;
- (7) The applicant's left and right index fingerprints or, if clear impressions cannot be obtained, other identifying imprints as specified by rules of the director;
- (8) The social security number of the applicant; and
- (9) A digitized frontal photograph of the applicant's full face.

Each applicant shall present documentary evidence as required by the examiner of drivers of the applicant's age and identity, and the applicant shall swear or affirm that all information given is true and correct.

(d) The application also shall state whether the applicant has an advance health-care directive. If the applicant has an advance health-care directive, the identification card shall bear the designation "AHCD".

(e) The examiner of drivers, in accordance with section 11-15, at the time of application, shall make available an application for voter registration to every applicant for an identification card who is eligible to register to vote.

(f) The examiner of drivers shall maintain a suitable, indexed record of all applications.

(g) For the purpose of this section, "AHCD", which stands for "advance health-care directive", means an individual instruction in writing, a living will, or a durable power of attorney for health care decisions. [L 2012, c 310, pt of §2; am L 2014, c 6, §3]

" **§286-304 Procedure.** (a) All information required by section 286-303 shall be obtained by employees of the examiner of drivers as provided for by rules of the director and by

individual interviews with the applicant for the identification card or parent, individual in loco parentis, or guardian, as shown by letters of guardianship. Every applicant or individual providing information on behalf of any applicant under part VI and this part shall answer truthfully all questions, furnish all information within the possession or knowledge of the individual that may be asked or required by the employee within the scope of the requirements of this part, and submit to the examiner of drivers all information and supporting documentation required by rules of the director.

(b) Special provisions may be made by rules adopted by the director.

(c) The examiner of drivers may require an applicant, or any individual providing information on behalf of an applicant, to furnish original or certified copies of documents to establish or corroborate the information required to establish identity under this part and may, by rules, set forth what documents will be required to support or corroborate certain information.

(d) For a person who qualifies as homeless pursuant to section 346-361, the examiner of drivers shall accept a signed sworn statement from a member of a victim services organization, an attorney, a member of the clergy, correctional institution staff, a medical or other health professional from whom the person has sought services, or a verification letter from a homeless service provider as documentary evidence of the person's address. [L 2012, c 310, pt of §2; am L 2015, c 243, §1]

" **§286-305 Contents and characteristics; form.** (a) Each identification card issued by the examiner of drivers shall display a distinguishing number assigned to the cardholder, and shall display the following inscription:

"STATE OF HAWAII IDENTIFICATION CARD"

(b) The examiner of drivers, after obtaining the fingerprint of the applicant as provided in this part and after obtaining the information required by or pursuant to this part, shall issue to each applicant an identification card in a form and with identifying information that the director deems necessary and appropriate, including a notation of veteran status, if desired by the applicant, on the front of the card where applicable; provided that such notation shall not include any designation other than the term "veteran". As used in this subsection, "veteran" means any person who served in any of the uniformed services of the United States and was discharged under conditions other than dishonorable.



(c) The identification card shall not display the cardholder's social security number.

(d) The identification card shall be designed to prevent its reproduction or alteration without ready detection.

(e) The identification card for individuals under twenty-one years of age shall have characteristics prescribed by the examiner distinguishing it from that issued to a individual who is twenty-one years of age or older. [L 2012, c 310, pt of §2; am L 2014, c 6, §4]

" **[\$286-306] Expiration; renewal; replacement.** (a) Every identification card issued under this part, whether an original or a renewal, shall bear an expiration date that shall be the date and month of the individual's birthday eight years after the year of issuance; provided that if the individual is a legal nonimmigrant, the certificate shall bear an expiration date that is the same as the expiration date on the individual's arrival-departure record, CBP Form I-94. A cardholder may renew the cardholder's identification card within six months before the day on which it expires by filing an application in accordance with section 286-303 and paying the prescribed fee [established] by rules of the director.

(b) If an identification card is lost, destroyed, stolen, or mutilated, the individual to whom the identification card was issued may obtain a duplicate by paying the fee established by rules of the director and by:

- (1) Furnishing suitable proof of the loss, destruction, or mutilation to the examiner; and
- (2) Filing an application and presenting documentary evidence under section 286-303.

Any individual who loses an identification card and, after obtaining a duplicate, finds the original, shall immediately surrender the original to the examiner.

(c) The examiner of drivers shall cancel any identification card upon determining that the identification card was obtained unlawfully, issued in error, or altered. The examiner also shall cancel a REAL ID compliant identification card that is surrendered to the examiner of drivers after the cardholder has obtained a duplicate or replacement REAL ID compliant identification card, or if a REAL ID-compliant driver's license has been previously issued.

(d) No agent of the State or its political subdivisions shall condition the granting of any benefit, service, right, or privilege upon the possession by any individual of an identification card. Nothing in this section shall preclude any publicly operated or franchised transit system from using an identification card for the purpose of granting benefits or

services of the system. No individual shall be required to apply for, carry, or possess an identification card. [L 2012, c 310, pt of §2]

" **[§286-307] Identification cards not to be altered; duties of holder; lost certificates.** (a) No individual, except agents of the examiner acting pursuant to the authority of law, shall alter, deface, or destroy any identification card. Except as specifically authorized by this section or the rules of the director, no cardholder shall loan or give the individual's identification card to any other individual, and no individual shall use the identification card of any other individual.

(b) Any individual whose identification card is stolen or otherwise lost, altered, defaced, or destroyed, may at any time apply for a duplicate identification card. The duplicate shall be issued by the examiner of drivers upon being satisfied as to the loss, alteration, defacing, or destruction. In the case of an altered or defaced identification card, the identification card, if available, shall be surrendered by the cardholder and canceled by the examiner.

(c) Any individual finding or coming into possession of the identification card of any other individual shall promptly return or deliver the same to the owner thereof, the examiner of drivers that issued it, or any law enforcement officer. [L 2012, c 310, pt of §2]

" **[§286-308] Correction or alteration of records and identification cards in cases of error or subsequent changes concerning names, citizenship, description, etc.** (a) A cardholder who, after receiving an identification card, has a change in one or more of the following:

- (1) Name, legally changed by marriage, divorce, adoption, legitimization, order of the lieutenant governor, or other legal means;
- (2) Citizenship status;
- (3) Address; or
- (4) Individual in charge of the cardholder (in the case of a minor or incompetent individual),

within thirty days after the change, shall report the change, submit supporting documents, and present the cardholder's identification card to the examiner. The examiner of drivers, upon being furnished with satisfactory proof as to the change, and receiving payment of the fee, shall cancel the identification card and issue a new identification card bearing the new name, citizenship status, or address of the cardholder, making appropriate notation of the facts upon the records of the examiner.

(b) If any error has been made in any item of information contained in the records of the examiner of drivers or on the identification card concerning any cardholder, the examiner of drivers or the cardholder, upon application and upon provision of evidence satisfactory to the examiner that an error has been committed, may correct the error and, in such case, shall make appropriate changes or notations stating the error and the correct information in the records of the examiner of drivers and on the identification card.

(c) If any item of the cardholder's personal information was originally correct, but will change after issuance of the identification card and the examiner of drivers finds the change material, the examiner of drivers may register the change and alter the records and identification card to conform thereto, upon receipt of satisfactory evidence of the change and approval of the examiner. [L 2012, c 310, pt of §2]

" **§286-309 Rules.** For the purpose of carrying out this part, the director, pursuant to chapter 91, shall adopt rules including rules assessing reasonable fees for the services provided under this part. The rules shall:

- (1) Authorize the examiner of drivers to waive any fee in cases of extreme hardship and provide criteria for determining whether a waiver is warranted; and
- (2) Direct the examiner of drivers to waive all fees for the issuance of an original or renewal identification card for any individual who is homeless; provided the individual's homeless status is corroborated by a verification letter issued by a homeless service provider. [L 2012, c 310, pt of §2; am L 2015, c 243, §2]

" **[§286-310] Forms.** The director may prepare, prescribe, and furnish, in conformity with this part, forms for questionnaires, notices, fingerprint cards or forms, certificates of identification, instructions, and all other forms necessary or proper for the prompt, efficient, and adequate execution of the functions of the examiner of drivers set forth in this part. [L 2012, c 310, pt of §2]

" **[§286-311] Custody and use of records; confidential information.** (a) All information and records acquired by the examiner of drivers under this part shall be confidential. All information and records shall be maintained in an appropriate form and in an appropriate office in the custody and under the control of the examiner. The information shall be available only to authorized individuals under such restrictions as the

director shall prescribe. The examiner may dispose of any application or identification card, or information or record relating to the application or identification card, which does not include a social security number, without regard to chapter 94, whenever, in the examiner's discretion, retention of the information or record is no longer required or practicable.

(b) No officer or employee of the examiner of drivers shall divulge any information concerning any cardholder acquired from the records of the examiner or acquired in the performance of any of the officer's or employee's duties under part VI and this part to any individual not authorized to receive the same pursuant to part VI and this part. No individual acquiring from the records any information concerning any cardholder shall divulge the information to any individual not so authorized to receive the same. [L 2012, c 310, pt of §2]

" **[\$286-312] Civil identification card fee special fund.** There is established in the state treasury a special fund to be known as the civil identification card fee special fund. The fund shall consist of all fees assessed for the processing and issuance of identification cards. The fund shall be used for the purposes of the identification card program. The fund shall be administered by the director. The fund shall be held separate and apart from all other moneys, funds, and accounts in the state treasury. Interest and investment earnings credited to the assets of the fund shall become a part of the fund. Any balance remaining in the fund at the end of any fiscal year shall be carried over to the next fiscal year. [L 2012, c 310, pt of §2]

" **[\$286-313] Reimbursement to counties.** The counties shall be reimbursed the incremental costs incurred in the administration of this part. The amount of reimbursement shall be determined by the director of transportation. [L 2012, c 310, pt of §2]