

JAN 17 2020

A BILL FOR AN ACT

RELATING TO COMMERCIAL MOTOR VEHICLES.

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

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

3 "§286-240 Disqualification, cancellation, and downgrade.

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

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

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

15 (3) Refusing to submit to a test to determine the driver's
16 alcohol concentration while driving a motor vehicle as
17 required under sections 286-243 and 291E-11;



- 1 (4) Using a motor vehicle in the commission of any felony;
- 2 (5) Leaving the scene of an accident involving the motor
- 3 vehicle driven by the person;
- 4 (6) Unlawful transportation, possession, or use of a
- 5 controlled substance while on duty;
- 6 (7) Driving a commercial motor vehicle when, as a result
- 7 of prior violations committed while operating a
- 8 commercial motor vehicle, the driver's commercial
- 9 driver's license or commercial learner's permit is
- 10 revoked, suspended, or canceled, or the driver is
- 11 otherwise disqualified from operating a commercial
- 12 motor vehicle; or
- 13 (8) Causing a fatality through the operation of a
- 14 commercial motor vehicle, including through the
- 15 commission of the crimes of manslaughter and negligent
- 16 homicide in any degree.
- 17 (b) The examiner of drivers shall disqualify any person
- 18 for a period of not less than three years for any conviction of
- 19 a violation of any offense listed in subsection (a) that is
- 20 committed while a hazardous material required to be placarded



1 under title 49 Code of Federal Regulations, part 172, subpart F,
2 is being transported.

3 (c) The examiner of drivers shall disqualify any person
4 from driving a commercial motor vehicle for life if the person
5 is convicted two or more times for any of the offenses listed in
6 subsection (a).

7 (d) The examiner of drivers shall disqualify any person
8 from driving a commercial motor vehicle for life if the person
9 uses a motor vehicle in the commission of any felony involving
10 the manufacturing, distributing, or dispensing of a controlled
11 substance, or possession with intent to manufacture, distribute,
12 or dispense a controlled substance.

13 (e) The examiner of drivers shall disqualify any person
14 from driving a commercial motor vehicle for a period of not less
15 than sixty days if the person is convicted of two serious
16 traffic violations, or one hundred twenty days if the person is
17 convicted of three serious traffic violations; provided that the
18 violations are committed in a commercial motor vehicle and arise
19 from separate incidents occurring within a three-year period.
20 The one hundred twenty-day disqualification period required for
21 a third conviction within three years of a serious traffic



1 violation, as defined in section 286-231, shall be in addition
2 to any other previously imposed period of disqualification. The
3 disqualification periods specified in this subsection shall also
4 apply to offenses committed while operating a noncommercial
5 motor vehicle only if the conviction for the offense results in
6 the revocation, cancellation, or suspension of the driver's
7 license.

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

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



1 more than five years for a third or subsequent violation of a
2 driver or vehicle out-of-service order committed in a commercial
3 motor vehicle transporting non-hazardous materials arising from
4 separate incidents occurring within a ten-year period.

5 (h) The examiner of drivers shall disqualify any person
6 from driving a commercial motor vehicle for a period of not less
7 than one hundred eighty days and not more than two years for a
8 first violation and for at least three years and not more than
9 five years for any subsequent violation of a driver or vehicle
10 out-of-service order committed in a commercial motor vehicle
11 transporting hazardous materials required to be placarded under
12 title 49 Code of Federal Regulations, part 172, subpart F, or
13 designed to transport sixteen or more occupants including the
14 driver; provided that each violation arises from separate
15 incidents occurring within a ten-year period.

16 (i) The examiner of drivers shall disqualify any person
17 from driving a commercial motor vehicle for a period of not less
18 than sixty days if the person is convicted of a first violation,
19 not less than one hundred twenty days if the person is convicted
20 of a second violation during any three-year period, and not less
21 than one year if the person is convicted of a third or



1 subsequent violation during any three-year period of a federal,
2 state, or local law or regulation pertaining to one of the
3 following six offenses at a railroad-highway grade crossing:

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

7 (2) For all drivers who are not required to always stop,
8 failing to stop before reaching the crossing, if the
9 tracks are not clear;

10 (3) For all drivers who are always required to stop,
11 failing to stop before driving onto the crossing;

12 (4) For all drivers, failing to have sufficient space to
13 drive completely through the crossing without
14 stopping;

15 (5) For all drivers, failing to obey a traffic control
16 device or the directions of an enforcement official at
17 the crossing; or

18 (6) For all drivers, failing to negotiate a crossing
19 because of insufficient undercarriage clearance.

20 (j) The examiner of drivers shall disqualify any person
21 from driving a commercial motor vehicle if the driver's driving



1 is determined to constitute an imminent hazard, as defined in
2 section 286-231 and in accordance with the provisions of title
3 49 Code of Federal Regulations section 383.52.

4 (k) The examiner of drivers shall disqualify any person
5 from driving a commercial motor vehicle for life if the person
6 uses a commercial motor vehicle in the commission of any felony
7 involving an act or practice of severe forms of trafficking in
8 persons, as defined in title 22 United States Code section
9 7102(11).

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



1 SECTION 2. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4 This Act shall take effect upon its approval.
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S.B. NO. 2233

Report Title:

Commercial Motor Vehicles; Examiner of Drivers; Permanent Disqualification; Human Trafficking; Conviction; Licensing

Description:

Requires the examiner of drivers to disqualify any person from driving a commercial motor vehicle for life if that person uses a commercial motor vehicle in the commission of a felony involving an act or practice of severe forms of trafficking in persons.

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