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# 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 286-2, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

4 "Severe forms of trafficking in persons" means:

5 (1) Sex trafficking in which a commercial sex act is  
6 induced by force, fraud, or coercion, or in which the  
7 person induced to perform such act has not attained 18  
8 years of age; or

9 (2) The recruitment, harboring, transportation, provision,  
10 or obtaining of a person for labor or services,  
11 through the use of force, fraud, or coercion for the  
12 purpose of subjection to involuntary servitude,  
13 peonage, debt bondage, or slavery."

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

16 "§286-240 Disqualification, cancellation, and downgrade.

17 (a) The examiner of drivers shall disqualify any person from



1 driving a commercial motor vehicle for a period of not less than  
2 one year if convicted of a first violation of:

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



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

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

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

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

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



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

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

20 (f) The examiner of drivers shall disqualify any person  
21 from driving a commercial motor vehicle or from resubmitting an



1 application for a period of not less than sixty days if the  
2 examiner of drivers finds that a commercial driver's license or  
3 a commercial learner's permit holder or applicant for a  
4 commercial driver's license or commercial learner's permit has  
5 falsified information or failed to report or disclose required  
6 information either before or after issuance of a commercial  
7 driver's license or a commercial learner's permit.

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

17 (h) 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 two years for a  
20 first violation and for at least three years and not more than  
21 five years for any subsequent violation of a driver or vehicle



1 out-of-service order committed in a commercial motor vehicle  
 2 transporting hazardous materials required to be placarded under  
 3 title 49 Code of Federal Regulations, part 172, subpart F, or  
 4 designed to transport sixteen or more occupants including the  
 5 driver; provided that each violation arises from separate  
 6 incidents occurring within a ten-year period.

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

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

19 (2) For all drivers who are not required to always stop,  
 20 failing to stop before reaching the crossing, if the  
 21 tracks are not clear;



- 1           (3) For all drivers who are always required to stop,
- 2                 failing to stop before driving onto the crossing;
- 3           (4) For all drivers, failing to have sufficient space to
- 4                 drive completely through the crossing without
- 5                 stopping;
- 6           (5) For all drivers, failing to obey a traffic control
- 7                 device or the directions of an enforcement official at
- 8                 the crossing; or
- 9           (6) For all drivers, failing to negotiate a crossing
- 10                because of insufficient undercarriage clearance.
- 11           (j) The examiner of drivers shall disqualify any person
- 12 from driving a commercial motor vehicle if the driver's driving
- 13 is determined to constitute an imminent hazard, as defined in
- 14 section 286-231 and in accordance with the provisions of title
- 15 49 Code of Federal Regulations section 383.52.
- 16           (k) The examiner of drivers shall disqualify any person
- 17 from driving a commercial motor vehicle for life if the person
- 18 uses a commercial motor vehicle in the commission of any felony
- 19 involving an act or practice of severe forms of trafficking in
- 20 persons, as defined in title 22 United States Code
- 21 section 7102(11).



1           ~~(k)~~ (l) Beginning January 30, 2014, if a driver fails to  
2 provide the examiner of drivers with the certification required  
3 under title 49 Code of Federal Regulations section  
4 383.71(a)(1)(ii) or a current medical examiner's certificate if  
5 the driver self-certifies according to title 49 Code of Federal  
6 Regulations section 383.71(a)(1)(ii)(A) that the driver is  
7 operating in non-excepted interstate commerce as required by  
8 title 49 Code of Federal Regulations section 383.71(h), the  
9 examiner of drivers shall mark the commercial driver's license  
10 information system driver record as not-certified and initiate a  
11 commercial driver's license downgrade."

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

15           SECTION 4. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17           SECTION 5. This Act shall take effect upon its approval.





**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. (SD1)

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

