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State Capitol, Room 325



S.B. 2993, H.D. 1
RELATING TO COMMERCIAL DRIVER'S LICENSES.

Senate Committee on Judiciary

The Department of Transportation **supports with amendments** S.B. 2993, H.D.1 which removes the obsolete wording in section 286-236(a), Hawaii Revised Statutes, that relates to medical waivers for commercial driver's license holders due to diabetes mellitus.

An amendment to a federal rule CFR 49 383.41(b) removed the requirement for commercial driver's license (CDL) holders who are treating diabetes mellitus with insulin to obtain a medical waiver in addition to their periodic medical examination. Rather than using a waiver, the medical examiner who examines the driver will confer with the driver's treating clinician, evaluate the driver's medical records and decide whether the driver's medical condition will have an adverse effect on the person's ability to drive safely. If the driver satisfies the medical requirements, a medical examiner's certificate with no indication of a waiver will be issued to the driver. If the driver does not meet the requirements, a certificate will not be issued.

The proposed legislation will align Hawaii's law with the federal regulations and will improve and expedite the certification process for CDL holders who are treating diabetes with insulin.

The DOT is requesting to amend this bill by adding the language from S.B. 1277, S.D. 2, H.D.1.

The Performance Registration Information Systems Management (PRISM) program, hereinafter referred to as "the Program", is a federal program that identifies motor carriers that are under a federal operations "out-of-service" order because these motor carriers have not corrected safety "deficiencies" as noted in Federal Motor Carrier Safety Administration (FMCSA) compliance review investigations. The Fixing America's

Surface Transportation (FAST) Act, passed in December of 2015, made the PRISM program mandatory for all States as a condition of receiving Motor Carrier Safety Assistance Program (MCSAP) grant funding.

DOT's motor carrier safety officers are partly funded by MCSAP grant funding through FMCSA. This federal grant covers MCSAP eligible activities at 85 percent and the State covers the remaining portion at 15 percent. MCSAP eligible activities include such highway safety activities as motor carrier vehicle inspections conducted to ensure motor carrier vehicles are safe to operate on our highways and safety compliance reviews.

MCSAP recipients are required to be in "full participation" by October 1, 2020. Consequently, to continue to receive MCSAP funding, DOT must be deemed by FMCSA to be in "full participation" by October 1, 2020.

Presently, in the State of Hawaii, a total of 205 out of 1,263 motor carriers along with their registered motor carrier vehicles are covered by the Program. These interstate motor carriers that fall under the Program's jurisdiction are mandated to meet required safety standards that ensure their vehicles are safe when being operated on our highways. Some of the safety standards enforced, for example, are:

- Brake Systems
- Cargo Securement
- Exhaust System
- Vehicle Frames
- Suspensions
- Tires

Should a motor carrier vehicle fail to meet the required safety standards and subsequently placed on a federal operations out-of-service order, the Program requires that the state: (1) deny initial and renewal registration transactions for motor carriers that have been issued a federal operations out-of-service order; and (2) suspend or revoke the registrations of a motor carrier that has been issued any federal operations out-of-service orders. Once the motor carrier resolves any such federal operations out-of-service orders so that they are rescinded, the motor carrier will be eligible to reapply for initial and new registration transactions and the reinstatement of registrations that were suspended or revoked.

Since 2012, nine motor carriers who had been issued a federal operations out-of-service order have been involved in a motor vehicle crash. A PRISM effectiveness evaluation conducted by the FMCSA Analysis Division of data between calendar years 2008 to 2013 determined that States that fully participate in the Program have a 20.4 percent reduction in all commercial motor vehicle crashes when compared with non-fully participating States.

According to the FMCSA, there are currently 13 active motor carriers operating their businesses in the State of Hawaii after receiving federal out-of-service orders. Passing this bill will provide the authority to deny these motor carriers issued these federal operations out-of-service orders the ability to renewal or initially register their motor

carrier vehicles and suspend or revoke the current registration of their motor carrier vehicles; until these motor carriers resolve their federal operations out-of-service orders.

The DOT recommends the following amendments to this measure to meet compliance with the FAST Act, attain the Program level of “full participation” and continue to receive MCSAP grant funding.

Amend Section 1, “Out-of-Service order” definition to read as follows:

“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 49 CFR 386.72, 392.5, 392.9a, 395.13, or 396.9, or 49 USC 31106(b)(2), or compatible laws, or the North American Standard Out-of-Service Criteria.

Amend Section 2, Section 286-41 Hawaii Revised Statutes, subsection (f) to read as follows:

“(f) Any motor carrier, as defined in section 286-201, that has not resolved any federal operations out-of-service order issued by the U.S. Department of Transportation Secretary shall not complete an initial registration of a motor carrier vehicle until all such federal operations out-of-service orders are resolved.”

Amend Section 3, Section 286-51 Hawaii Revised Statutes, subsection (a) to read as follows:

“(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, or the registered owner of a motor carrier vehicle, as defined in section 286-201, has not resolved any federal operations out-of-service orders issued by the U.S. Department of Transportation Secretary, 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[-], or resolve all such federal operations out-of-service orders. 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. Any certificate of registration belonging to a motor carrier shall be suspended or revoked when that motor carrier has been issued any federal operations out-of-service orders by the U.S. Department of Transportation Secretary and that certificate of registration shall remain suspended or revoked until all such federal operations out-of-service orders are resolved. 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."

Additionally, DOT recommends amending the effective date in Section 5 to October 1, 2020. Amending the effective date is recommended because implementation of this bill will require computer programming / mainframe modifications by the City and County of Honolulu's Department of Information Technology.

Providing the authority to deny the initial and renewal of registrations and suspending or revoking current registrations of the motor carrier vehicles of any motor carrier who has any unresolved out-of-service orders, will bring Hawaii into "full participation" with the Program's requirements and make Hawaii eligible to continue to receive MCSAP grant funding.

The ability to retain MCSAP grant funding will help ensure that motor carrier vehicles are safe to operate on Hawaii's roads, thereby protecting our residents and visitors as they travel to their destinations.

Thank you for the opportunity to provide testimony.

A BILL FOR AN ACT

RELATING TO COMMERCIAL DRIVER'S LICENSES AND MOTOR VEHICLE
REGISTRATION.

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

1 SECTION 1. Section 286-236, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

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

1 communicate with the applicant only in English during the skills
2 test. As of January 30, 2012, the examiner of drivers shall
3 verify that the medical certification status of a driver who
4 self-certified according to title 49 Code of Federal Regulations
5 section [~~383.71(a)(1)(ii)(A)~~], 383.71(b)(1)(i), non-excepted
6 interstate, is certified. If a driver submits a current medical
7 examiner's certificate, the examiner of drivers shall date-stamp
8 the certificate and post all required information to the
9 commercial driver's license information system pursuant to title
10 49 Code of Federal Regulations section [~~383.73(a)(5)~~]
11 383.73(b)(5) and in accordance with title 49 Code of Federal
12 Regulations section [~~383.73(j)~~]. 383.73(o). A person who is not
13 physically qualified to drive under title 49 Code of Federal
14 Regulations section 391.41(b)(1) [~~7~~] or (2) [~~7~~, ~~or~~ (3)] and who is
15 otherwise qualified to drive a motor vehicle may be granted an
16 intrastate waiver by the director. The process for granting
17 intrastate waivers shall be the same as that for interstate
18 waivers in title 49 Code of Federal Regulations section 391.49,
19 except that the intrastate waiver requests shall be submitted to
20 the director[; ~~provided that the director shall adopt rules~~
21 ~~under chapter 91 to establish a screening process, including~~
22 ~~approval by a licensed physician, for granting an intrastate~~
23 ~~waiver to persons who are not physically qualified under title~~
24 ~~49 Code of Federal Regulations section 391.41(b)(3)]."~~

1 ~~SECTION 2.~~ Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

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

6 "Out-of-service order" means a declaration by an
7 authorized enforcement officer of a Federal, State, Canadian,
8 Mexican, or local jurisdiction that a driver, a commercial motor
9 vehicle, or a motor carrier operation is out-of-service pursuant
10 to 49 CFR 386.72, 392.5, 392.9a, 395.13, or 396.9, or 49 USC
11 31106(b)(2), or compatible laws, or the North American Standard
12 Out-of-Service Criteria."

13 SECTION 3. Section 286-41, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§286-41 Application for registration; full faith and**
16 **credit to current certificates; this part not applicable to**
17 **certain equipment.** (a) Every owner of a motor vehicle which is
18 to be operated upon the public highways shall, for each vehicle
19 owned, except as herein otherwise provided and except as
20 provided in section 286-42(c), apply to the director of finance
21 of the county where the vehicle is to be operated, for the
22 registration thereof. If a vehicle is moved to another county
23 and is to be operated upon the public highways of that county,
24 the existing certificate of registration shall be valid until

1 its expiration date, at which time the owner shall apply to the
2 director of finance of the county in which the vehicle is then
3 located for the registration of the vehicle, whether or not the
4 owner is domiciled in the county or the owner's principal place
5 of business is in that county, except that this provision shall
6 not apply to vehicles which are temporarily transferred to
7 another county for a period of not more than three months.

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

1 notice attached to or painted on the vehicle in a location that
2 is in clear view of the driver.

3 (c) If the vehicle to be registered is specially
4 constructed, reconstructed, or rebuilt; is a special interest
5 vehicle; or is an imported vehicle, this fact shall be stated in
6 the application and upon the registration of the special
7 interest motor vehicle and imported motor vehicle, which has
8 been registered until that time in any other state or county,
9 and the owner shall surrender to the director of finance the
10 certificates of registration or other evidence of such form of
11 registration as may be in the applicant's possession or control.
12 The director of finance shall grant full faith and credit to the
13 currently valid certificates of title and registration
14 describing the vehicle, the ownership thereof, and any liens
15 noted thereon, issued by any title state or county in which the
16 vehicle was last registered. The acceptance by the director of
17 finance of a certificate of title or of registration issued by
18 another state or county, as provided in this subsection, in the
19 absence of knowledge that the certificate is forged, fraudulent,
20 or void, shall be a sufficient determination of the genuineness
21 and regularity of the certificate and of the truth of the
22 recitals therein, and no liability shall be incurred by any
23 officer or employee of the director of finance by reason of so
24 accepting the certificate.

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

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

15 (f) Any motor carrier, as defined in section 286-201, that
16 has not resolved any federal operations out-of-service order
17 issued by the U.S. Department of Transportation Secretary shall
18 not complete an initial registration of a motor carrier vehicle
19 until all such federal operations out-of-service orders are
20 resolved.

21 [~~f~~] (g) The provisions of this part requiring the
22 registration of motor vehicles shall not apply to:

23 (1) Special mobile equipment;

- 1 (2) Implements of husbandry temporarily drawn, moved, or
2 otherwise propelled upon the public highways;
- 3 (3) Aircraft servicing vehicles which are being used
4 exclusively on lands set aside to the department of
5 transportation for airport purposes; and
- 6 (4) Tractor trucks, forklifts, and top picks being used as
7 marine terminal equipment temporarily moving in or
8 between terminals at Sand Island and along Sand Island
9 Parkway and Sand Island Access Road."

10 SECTION 4. Section 286-51 Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) The certificate of registration for each motor
13 vehicle in the counties of the State shall be renewed on a
14 staggered basis as established by each county. The director of
15 finance of each county may adopt rules to carry out the purposes
16 stated in this section and shall expend the necessary funds from
17 the director's operating funds as may be necessary for these
18 purposes; provided that the director of finance, if the director
19 has ascertained as of the date of the application that the
20 registered owner has not deposited or paid bail with respect to
21 any summons or citation issued to the registered owner for
22 stopping, standing, or parking in violation of traffic
23 ordinances within the county, or the registered owner of a motor
24 carrier vehicle, as defined in section 286-201, has not resolved

1 any federal operations out-of-service orders issued by the U.S.
2 Department of Transportation Secretary, may require, as a
3 condition precedent to the renewal, that the registered owner
4 deposit or pay bail with respect to all such summonses or
5 citations[-], or resolve all such federal operations out-of-
6 service orders. The certificates of registration issued
7 hereunder shall show, in addition to all information required
8 under section 286-47, the serial number of the tag or emblem and
9 shall be valid during the registration year only for which they
10 are issued. Any certificate of registration belonging to a
11 motor carrier shall be suspended or revoked when that motor
12 carrier has been issued any federal operations out-of-service
13 orders by the U.S. Department of Transportation Secretary and
14 that certificate of registration shall remain suspended or
15 revoked until all such federal operations out-of-service orders
16 are resolved. The certificates of ownership need not be renewed
17 annually but shall remain valid as to any interest shown therein
18 until canceled by the director of finance as provided by law or
19 replaced by new certificates of ownership as hereinafter
20 provided."

21 SECTION 5. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.

23 SECTION 6. This Act shall take effect on October 1, 2020.

24

Report Title:

Commercial Driver's License Qualification Standards; Medical Waivers; Diabetes; Motor Vehicle Registration; Federal Out-of-Service Order.

Description:

Aligns the commercial driver's license qualification standards with federal regulations by repealing language related to medical waivers due to diabetes. Makes conforming amendments to Code of Federal Regulation citations.

Amends the law relating to registration renewals and initial registrations of motor carrier vehicles of any motor carrier who has an outstanding federal out-of-service order. Adds a definition for "out-of-service order".

Effective 10/1/2020. (HD1)

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