

ACT 268

H.B. NO. 2051

A Bill for an Act Relating to Highway Safety.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-105, Hawaii Revised Statutes, is amended to read as follows:

“§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 any other state of the United States, the Commonwealth of Puerto Rico, U.S. 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; and

- (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."

SECTION 2. Section 286-231, Hawaii Revised Statutes, is amended by amending the definition of "nonresident commercial driver's license" to read as follows:

"“Nonresident commercial driver's license” means a commercial driver's license issued by a state [or foreign jurisdiction] to an individual who resides in a foreign jurisdiction [or a state other than the one that issued the license].”

SECTION 3. Section 286-232, Hawaii Revised Statutes, is amended to read as follows:

“[§286-232] Limitation on number of [commercial] driver's licenses. No person who drives a commercial motor vehicle may have more than one [commercial] driver's license.”

SECTION 4. Section 286-233, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any driver of a commercial motor vehicle holding a commercial driver's license 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 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.”

SECTION 5. Section 286-234, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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

- (1) 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; or
- (2) In which the driver has more than one [commercial] driver's license.”

SECTION 6. Section 286-237, Hawaii Revised Statutes, is amended to read as follows:

“[§286-237] **Nonresident commercial driver's license.** The examiners of drivers may issue a nonresident commercial driver's license to a resident of a foreign jurisdiction if the United States Secretary of Transportation has determined that the commercial motor vehicle testing and licensing standards in the foreign jurisdiction do not meet the testing standards established in 49 Code of Federal Regulations, Part 383. The word “nonresident” must appear on the face of the nonresident commercial driver's license. [An applicant must surrender any nonresident commercial driver's license issued by another state or foreign country.] Prior to issuing a nonresident commercial driver's license, the examiner of drivers must establish the practical capability of revoking, suspending, and canceling the nonresident commercial driver's license and disqualifying that person with the same conditions applicable to the commercial driver's license issued to a resident of this State.”

SECTION 7. Section 286-243, Hawaii Revised Statutes, is amended by amending subsections (d) and (e) to read as follows:

“(d) If the [person] driver refuses testing, or submits to a test which discloses in the driver's body an alcohol concentration of 0.04 per cent or more by weight, the law enforcement officer shall submit an affidavit to a district judge of the circuit in which the [arrest was made,] driver was stopped or detained stating that the test was authorized pursuant to subsection (a) and that the [person] driver refused to submit to testing, or submitted to a test which disclosed in the driver's body an alcohol concentration of 0.04 per cent or more by weight.

(e) [Upon receipt of the] A hearing to determine the truth and correctness of an affidavit of a law enforcement officer submitted under subsection (d), the district judge shall hold a hearing as provided in section 286-156 and shall determine whether the statements in the affidavit are true and correct.] 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 per cent or more by weight.

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 [under] as provided by section 286-240.”

SECTION 8. Section 286-245, Hawaii Revised Statutes, is amended to read as follows:

“[§286-245] Driving record information to be furnished. Notwithstanding any other provision of law to the contrary, the city and county of Honolulu shall furnish full information regarding the driving record of any person:

- (1) To the driver's license administrator of any other state, Mexico, or province or territory of Canada, requesting that information; and
- (2) To the person's employer or prospective employer.”

SECTION 9. Section 286-248, Hawaii Revised Statutes, is amended to read as follows:

“[§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 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, if the person's driver's license 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.”

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval.

(Approved June 18, 1993.)