

ACT 114

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

“(a) No person shall be issued a commercial driver’s license unless that person meets the qualification standards of 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 which complies with minimum federal standards established by federal regulation enumerated in 49 Code of Federal Regulations, Part 383, Subparts G and H, and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act (CMVSA) of 1986 (Title XII, Public Law 99-570) 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. A person who is not physically qualified to drive under 49 Code of Federal Regulations §391.41(b)(1) or (2) 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 49 Code of Federal Regulations, Part 391.49, except that the intrastate waiver requests shall be submitted to the director.”

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

“(f) The commercial driver’s instruction permit shall not be valid for a period in excess of six months. [Only one renewal or reissuance may be granted within a two-year period.] When driving a commercial motor vehicle, the holder of a commercial driver’s instruction permit shall be accompanied by a person licensed to operate that category of commercial motor vehicle. The licensed person shall occupy the seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle.”

SECTION 3. Section 286-239, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) An initial commercial driver’s license shall be valid for not less than a two- or four-year period, beginning on the driver’s birthday. Renewal licenses shall be valid for not more than a two- or four-year period from the expiration date of the previous valid license. The commercial driver’s license shall expire on the next

birthday of the licensee occurring four years after the date of issuance of the license unless sooner revoked, suspended, or canceled; provided that unless sooner revoked the license shall expire on the second birthday of the licensee following the issuance of the license if at that time the licensee[:

- (1) Is is sixty-five years of age or older[; or
- (2) Is twenty-one through twenty-four years of age].”

SECTION 4. Section 286-240, Hawaii Revised Statutes, is amended to read as follows:

“**[[§286-240[] Disqualification and cancellation.** (a) A person is disqualified 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 commercial motor vehicle under the influence of alcohol, a controlled substance, or any drug which impairs driving ability;
- (2) Driving a commercial motor vehicle while the alcohol concentration of the driver's blood is 0.04 per cent or more by weight;
- (3) Refusal to submit to a test to determine the driver's alcohol concentration while driving a commercial motor vehicle;
- (4) Using a commercial motor vehicle in the commission of any felony;
- (5) Leaving the scene of an accident involving the commercial motor vehicle driven by the person; or
- (6) Unlawful transportation, possession, or use of a controlled substance while on-duty time.

(b) A person is disqualified 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 is being transported.

(c) A person is disqualified from driving a commercial motor vehicle for life if convicted two or more times for [any] violations of [this section.] any of the offenses listed in subsection (a). Only offenses committed after April 1, 1991, may be considered in applying this subsection.

(d) A person is disqualified from driving a commercial motor vehicle for life if the person uses a commercial 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) A person is disqualified from driving a commercial motor vehicle for a period of not less than sixty days if convicted of two serious traffic violations, or one hundred twenty days if convicted of three serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period.

(f) A person is disqualified 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 holder or applicant for a commercial driver's license has falsified information or failed to report or disclose required information either before or after issuance of a commercial driver's license.

(g) A person is disqualified from driving a commercial motor vehicle for a period of not less than ninety days and not more than one year for a first violation, or for at least one year and not more than five years for a second violation, or at least three years and not more than five years for a third or subsequent violation of an out-of-service order committed in a commercial motor vehicle arising from separate incidents occurring within a ten-year period.

(h) A person is disqualified from driving a commercial motor vehicle for a period of not less than one hundred eighty days or more than two years for a first violation, or for at least three years and not more than five years for any subsequent

violation, of an out-of-service order committed in a commercial motor vehicle transporting hazardous materials or designed to transport sixteen or more occupants, arising from separate incidents occurring within a ten-year period.”

SECTION 5. Section 286-241, Hawaii Revised Statutes, is amended to read as follows:

“[[§286-241]] Notification of suspension, revocation, or cancellation of commercial driver’s licenses or permits. [(a)] After suspending, revoking, or canceling a commercial driver’s license or permit, the records of the examiner of drivers shall be updated to reflect that action within ten days. After suspending, revoking, or canceling a nonresident commercial driver’s license or permit, the examiner of drivers shall notify the licensing authority of the state which issued the commercial driver’s license within ten days.

[(b)] After suspending, revoking, or canceling a resident commercial driver’s license or permit, the examiner of drivers shall notify the driver’s current employer within ten days.]”

SECTION 6. Section 286-241.4, Hawaii Revised Statutes, is amended to read as follows:

“[[§286-241.4]] Authority of¹ examiner of drivers to suspend, revoke, or cancel commercial driver’s license or permit. The examiner of drivers may suspend, revoke, or cancel any commercial driver’s license or permit without a hearing when the examiner of drivers has probable cause to believe that the licensee is disqualified under section 286-240[.]**(c) through (h).** Upon suspension, revocation, or cancellation of the commercial driver’s license or permit, the driver’s license or permit shall be surrendered to the examiner of drivers by the licensee or permittee.”

SECTION 7. Section 286-242, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A person who drives a commercial motor vehicle while having an alcohol concentration of 0.01 per cent [through 0.03 per cent] or more by weight or who refuses to take a test as provided by section 286-243 shall be issued [an] 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.”

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 state judiciary or 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 286-249, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§286-249]]~~ **Penalty.** (a) Any person who drives a commercial motor vehicle in the State without a valid commercial driver’s license or permit, or while the person’s driving privileges are suspended, revoked, or canceled, or while disqualified from driving a commercial motor vehicle, [or in violation of any out-of-service order] 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 \$1,000 nor more than \$2,500 in addition to the driving disqualification of subsection (a)(1).’’

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 8, 1995.)

Note

1. Prior to amendment “the” appeared here.