

ACT 72

H.B. NO. 150

A Bill for an Act Relating to Driver Licensing.

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

SECTION 1. Chapter 286, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§286- Provisional license for persons under the age of eighteen. (a)

A person may be granted a provisional license to drive passenger cars of any gross vehicle weight rating, buses designed to transport fifteen or fewer occupants, and trucks and vans having a gross vehicle weight rating of fifteen thousand pounds or less if the person:

- (1) Is at least sixteen years of age but under the age of eighteen;
- (2) Holds an instruction permit and has held the permit for a period of at least one hundred eighty days and there is no pending proceeding that might result in the suspension or revocation of the instruction permit; and
- (3) Satisfactorily completes all requirements of sections 286-108 and 286-109.

(b) The provisional license shall entitle the provisional licensee to drive the class of motor vehicles specified in subsection (a) upon the roadways of the State; provided that:

- (1) The provisional licensee shall have the provisional license in the provisional licensee's immediate possession while driving;
- (2) All occupants of the motor vehicle shall be restrained by safety belts or a child passenger restraint system as required under sections 291-11.5 and 291-11.6;
- (3) The provisional licensee shall not transport more than one person under the age of eighteen, unless the person is, with respect to the provisional licensee:
 - (A) A household member; or
 - (B) A household member's foster or hanai child, without being accompanied and supervised by a licensed driver who is the provisional licensee's parent or guardian; and
- (4) Except as provided in subsection (c), whenever the provisional licensee is driving between the hours of 11:00 p.m. and 5:00 a.m., a licensed driver who is the provisional licensee's parent or guardian and is licensed to operate the same category of motor vehicle as the licensee, shall be in the motor vehicle and shall occupy the passenger seat beside the licensee.

(c) A provisional licensee may drive between the hours of 11:00 p.m. and 5:00 a.m. without a licensed parent or guardian in the motor vehicle under the following conditions:

- (1) The provisional licensee is traveling to or from the provisional licensee's place of employment, operation of the motor vehicle is necessary for this purpose, and the provisional licensee keeps in the provisional licensee's possession a signed statement from the employer containing the employer's name, address, telephone number, and verification of employment and work hours; or
- (2) The provisional licensee is traveling to or from a school-authorized activity of the provisional licensee, operation of a motor vehicle is necessary for this purpose, and the provisional licensee keeps in the provisional licensee's possession a signed statement from a parent or guardian containing the parent's or guardian's name, address, and telephone number, and verification that operation of the motor vehicle by the provisional licensee is necessary to travel to or from the school-authorized activity;

provided that the provisional licensee shall not transport more than one person under the age of eighteen between the hours of 11:00 p.m. and 5:00 a.m. without being accompanied and supervised by a licensed driver who is the provisional licensee's parent or guardian.

(d) If the provisional licensee violates any of the requirements of subsection (b) or (c):

- (1) For a first violation of any requirement, the provisional license shall be suspended for a period of three months by a district court or family court judge. If the person's provisional license is suspended, the person shall not be eligible for reissuance of the provisional license or issuance of a driver's license until:
 - (A) The person is eighteen years of age; or
 - (B) Three months have elapsed since the date of suspension, whichever is sooner, and the person has otherwise satisfied the requirements of this chapter; and
- (2) For a second or any subsequent violation of any requirement, the provisional license shall be revoked for six months by a district court or family court judge. If the person's provisional license is revoked, the

person shall not be eligible for reissuance of the provisional license or issuance of a driver's license until:

- (A) The person is eighteen years of age; or
- (B) Six months have elapsed since the date of revocation, whichever is sooner, and the person has otherwise satisfied the requirements of this chapter.

(e) If the provisional licensee is convicted of an offense relating to the operation of a motor vehicle other than the requirements of subsection (b) or (c):

- (1) For a first conviction, the provisional license shall be suspended or revoked by a district court or family court judge, in addition to any other penalties that may be prescribed by law. If the person's provisional license is suspended or revoked, the person shall not be eligible for reissuance of the provisional license or issuance of a driver's license until:

- (A) The person is eighteen years of age; or
- (B) Six months have elapsed since the date of suspension or revocation, whichever is sooner, and the person has otherwise satisfied the requirements of this chapter; and

- (2) For a second or any subsequent conviction, the provisional license shall be revoked for one year by a district court or family court judge, in addition to any other penalties that may be prescribed by law. If the person's provisional license is revoked, the person shall not be eligible for reissuance of the provisional license or issuance of a driver's license until:

- (A) The person is eighteen years of age; or
- (B) One year has elapsed since the date of revocation, whichever is later, and the person has otherwise satisfied the requirements of this chapter.

(f) A provisional licensee may be issued a driver's license in accordance with this chapter if the provisional licensee:

- (1) Has satisfactorily held a provisional license for at least six months;
- (2) Has no pending proceeding that might result in the suspension or revocation of the license;
- (3) Is at least seventeen years of age; and
- (4) Has satisfactorily complied with all requirements of this chapter.

(g) If not suspended or revoked, the provisional license shall expire on the date of the provisional licensee's nineteenth birthday.

(h) The fee for a provisional license shall be set in accordance with section 286-111.

(i) This section shall not apply to the licensing of:

- (1) An emancipated minor; and
- (2) Motorcycle or motor scooter drivers.

(j) For the purposes of this section, "household member" shall have the same meaning as defined in section 291E-1."

SECTION 2. Section 286-102, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No person, except one exempted under section 286-105, one who holds an instruction permit under section 286-110, one who holds a provisional license under section 286-, one who holds a commercial driver's license issued under section 286-239, or one who holds a commercial driver's license instruction permit issued under section 286-236, shall operate any category of motor vehicles listed in

this section without first being appropriately examined and duly licensed as a qualified driver of that category of motor vehicles.”

SECTION 3. Section 286-104, Hawaii Revised Statutes, is amended to read as follows:

“§286-104 What persons shall not be licensed. The examiner of drivers shall not issue any license hereunder:

- (1) To any person whose license has been suspended by a court of competent jurisdiction during the suspension period[;], nor to any person whose license has been revoked until the expiration of one year after the date of the revocation, or until the expiration of the period of revocation specified by law, whichever is greater[;], except as provided under sections 286- (d) and 286- (e) for suspensions and revocations of a provisional license; nor to any person who, while unlicensed, has within two years been convicted of operating a vehicle under the influence of an intoxicant or, prior to January 1, 2002, of driving under the influence of alcohol or drugs;
- (2) To any person who is required by this part to take an examination, unless [such] the person has successfully passed the examination;
- (3) To any person who is required under the motor vehicle financial responsibility laws of this State to deposit proof of financial responsibility and who has not deposited [such] the proof;
- (4) To any person [when] who the examiner of drivers has good cause to believe ~~[that such person by reason of physical or mental disability]~~ would not be able to operate a motor vehicle with safety upon the highways[;] by reason of physical or mental disability;
- (5) To any person who is under eighteen years of age; provided that [a]:
 - (A) A person who is fifteen years and six months of age may be granted an instruction permit; [and provided further that a]
 - (B) A person who is at least sixteen [to seventeen] and less than eighteen years of age may be granted a provisional license upon satisfying the requirements of section 286- ;
 - (C) A person who is at least seventeen and less than eighteen years of age may be granted a license upon satisfying the requirements of [sections 286-108 and 286-109,] section 286- , which license [shall be valid for four years and] may be suspended or revoked by a judge having jurisdiction over the holder of the license. Upon revocation of the license, the person shall not be eligible to operate a motor vehicle on the highway until the person is eighteen years of age and has again satisfied the requirements of sections 286-108 and 286-109; or
 - (D) A person who is an emancipated minor may be granted a license upon satisfaction of all requirements of this chapter applicable to persons eighteen years of age or older; or
- (6) To any person who is not in compliance with section 286-102.5.

Any person denied a license under this or any other section of this part shall have a right of appeal as provided in section 286-129.”

SECTION 4. Section 286-106, Hawaii Revised Statutes, is amended to read as follows:

“§286-106 Expiration of licenses. Every driver’s license issued under this part, except for a provisional license issued under section 286- which shall expire

on the date of the provisional licensee's nineteenth birthday, whether an original issuance or a renewal, shall expire on the first birthday of the licensee occurring not less than six years after the date of the issuance of the license, unless sooner revoked or suspended; provided that the license shall expire ~~[on the first birthday of the licensee occurring not less than four years after the date of issuance of the license if the licensee is fifteen to seventeen years of age and]~~ two years after the date of the issuance of the license if at that time the licensee:

- (1) Is seventy-two years of age or older; or
- (2) Exhibits a physical condition or conditions ~~[which]~~ that the examiner of drivers reasonably believes has impaired the driver's ability to drive, unless the licensee:
 - (A) Obtains a certificate from a licensed physician that the licensee's physical condition or conditions do not impair the licensee's ability to drive; or
 - (B) Is able to correct the physical impairment, or is able to drive safely by using a vehicle adapted to overcome the physical impairment ~~[is]~~ to the satisfaction of the examiner of drivers ~~[able to drive safely].~~

SECTION 5. Section 286-108, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The examiner of drivers shall require proof from every applicant under the age of eighteen that the applicant has completed a driver education program and a behind-the-wheel driver training course certified by the director of transportation. The examiner of drivers shall not examine any applicant for a [driver's] provisional license who is sixteen through seventeen years of age unless the applicant holds and has held a valid instruction permit under section 286-110, for a period of no fewer than [ninety] one hundred eighty days. If the applicant's instruction permit has expired and a new instruction permit was issued within thirty days of its expiration, the examiner of drivers may examine the applicant without requiring an additional [ninety-day period.] one hundred eighty day period."

SECTION 6. Section 286-110, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Except when operating a motor scooter or motorcycle, the holder of [a temporary] an instruction permit shall be accompanied by a person who is [eighteen] twenty-one years of age or older and licensed to operate the category of motor vehicles in which the motor vehicle [which] that is being operated belongs. The licensed person shall occupy a passenger seat [as near] beside the permit holder [as is practical] while the motor vehicle is being [so] operated[-]; provided that if the holder of the instruction permit is under the age of eighteen years and is driving between the hours of 11:00 p.m. and 5:00 a.m.:

- (1) A licensed driver who is the permit holder's parent or guardian shall occupy a passenger seat beside the driver while the motor vehicle is operated, unless the permit holder is an emancipated minor;
- (2) The licensed driver shall be licensed to operate the same category of motor vehicles as the motor vehicle being operated by the holder of the instruction permit; and
- (3) All occupants of the motor vehicle shall be restrained by a seat belt assembly or a child passenger safety restraint system as required under sections 291-11.5 and 291-11.6, notwithstanding any other law to the contrary."

SECTION 7. Section 286-111, Hawaii Revised Statutes, is amended as follows:

1. By amending the title to read:

“§286-111 Application for license, provisional license, or instruction permit; fees.”

2. By amending subsection (a) to read:

“(a) Every application for an instruction permit, provisional license, or [for a] driver’s license shall be made upon a form furnished by the examiner of drivers and shall be verified by the applicant before a person authorized to administer oaths. The examiner of drivers and officers serving under the examiner may administer [such] the oaths without charge. Each application for an instruction permit for a category (1), (2), (3), or (4) license shall be accompanied by a fee to be determined by the council of each county and each application for a provisional license or driver’s license shall be accompanied by the fee, unless the applicant has already paid the fee upon application for an instruction permit in the same county, in which event no fee shall be [~~chargeable.~~] charged. An additional fee to be determined by the council of each county shall be charged and collected upon the issuance of a provisional license or driver’s license. All of the foregoing fees shall become county realizations.”

SECTION 8. Section 286-112, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The application of any person under the age of eighteen years for an instruction permit, provisional license, or driver’s license shall be signed and verified before a person authorized to administer oaths by the appropriate one of the following:

- (1) If both the father and mother of the applicant have custody of the applicant, by both the father and mother of the applicant; [~~or~~]
- (2) If only one parent has custody of the applicant, by the custodial parent; [~~or~~]
- (3) If neither parent has custody of the applicant, and the applicant has a custodial guardian or has custodial guardians, by the custodial guardian or by all the custodial guardians; or
- (4) If neither parent has custody of the applicant, and the applicant has no custodial guardian, by an employer of the applicant or by any responsible person who is willing to assume the obligation imposed under this part upon a person signing the application of a minor.

(b) Any negligence or misconduct of a minor under the age of eighteen years when driving a motor vehicle upon a highway shall be imputed to the person who has signed the application of the minor for a permit, provisional license, or license, which person shall be jointly and severally liable with the minor for any damages caused by [~~such~~] the minor’s negligence or misconduct.”

SECTION 9. Section 286-113, Hawaii Revised Statutes, is amended to read as follows:

“§286-113 Release from liability. Any person who has signed the application of a minor for an instruction permit, provisional license, or driver’s license may file with the examiner of drivers a verified written request that the permit, provisional license, or license of the minor be canceled, together with the permit, provisional license, or license issued. Upon receipt of the request, the examiner of drivers shall cancel the permit, provisional license, or license of the minor and the

person who [has] signed the application of the minor shall be relieved from the liability imposed under this part ~~[on account of]~~ for any subsequent negligence or ~~[willful]~~ willful misconduct of the minor in operating a motor vehicle. Nothing herein shall be construed to limit the liability of parents for the torts of their child as provided in chapter 577.”

SECTION 10. Section 286-114, Hawaii Revised Statutes, is amended to read as follows:

“§286-114 Revocation of license, provisional license, or instruction permit upon death of person signing minor’s application. The examiner of drivers upon receipt of satisfactory evidence of the death of a person who signed the application of a minor for an instruction permit, provisional license, or a license shall cancel the permit, provisional license, or license and shall not issue a new permit, provisional license, or license until ~~[such time as]~~ a new application duly signed and verified ~~[shall be]~~ is made as required by this part. Upon ~~[cancelling]~~ canceled the permit, provisional license, or license, the examiner of drivers shall notify the minor to surrender the permit, provisional license, or license. If the death occurs after the minor has reached majority, this section shall not apply.”

SECTION 11. Section 286-117, Hawaii Revised Statutes, is amended to read as follows:

“§286-117 Duplicate permits, provisional licenses, and licenses. The holder of an instruction permit, provisional license, or driver’s license may upon payment of the reasonable cost of its issuance obtain a duplicate; provided that the holder shall surrender the original permit, provisional license, or license or furnish satisfactory proof of loss or destruction of the same.

The chief of police or a police officer shall notify a holder that the holder’s permit, provisional license, or license is illegible and that the holder shall within ten days surrender the holder’s permit, provisional license, or license and apply for a duplicate. Upon failure to comply with a notice to surrender an illegible permit, provisional license, or license and apply for a duplicate, the person to whom the permit or license is issued shall be subject to the ~~[punishment]~~ penalties in section 286-136.”

SECTION 12. (a) The department of transportation and the department of health shall compile and analyze all relevant traffic and accident data, including but not limited to accident reports, crash data, and data relating to injuries and fatalities relating to motor vehicle accidents to determine the effectiveness of the graduated provisional licensing program in reducing traffic fatalities and accidents in the State.

(b) This report shall be submitted to the legislature no later than twenty days before the convening of each regular session while this graduated provisional licensing program remains in effect.

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

SECTION 14. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 15. This Act shall take effect on January 9, 2006; provided that on January 9, 2011, this Act shall be repealed and sections 286-102, 286-104, 286-106,

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286-108, 286-110, 286-111, 286-112, 286-113, 286-114, and 286-117, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day before the effective date of this Act.

(Approved May 25, 2005.)

Note

1. Edited pursuant to HRS §23G-16.5.