

A Bill for an Act Relating to Transportation.

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 part XIII to be appropriately designated and to read as follows:

“§286- Commercial learner’s permit. (a) A commercial learner’s permit shall be tamperproof; be marked with the words “commercial learner’s permit” or “CLP” displayed prominently; include a statement that it is not valid for driving a commercial motor vehicle unless presented with the underlying commercial driver’s license or non-commercial driver’s license; and shall include but not be limited to the following with respect to the licensee:

- (1) The full name and current mailing, residential, and business addresses;
- (2) A physical description including sex and height;
- (3) Date of birth;
- (4) Signature;
- (5) The date of issuance and the date of expiration of the permit; and
- (6) The driver’s state license number.

The commercial learner’s permit shall not contain a photograph, digitized image, or other visual representation of the driver.

(b) A commercial learner’s permit may be issued for the following vehicle categories:

- (1) Category A – Any combination of vehicles with a gross combination weight rating of twenty-six thousand one pounds or more; provided that the gross vehicle weight rating of the vehicles being towed is in excess of ten thousand pounds;
- (2) Category B – Any single vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more, or any such vehicle towing a vehicle not in excess of ten thousand pounds; and
- (3) Category C – Any single vehicle or combination of vehicles that meets neither the definition of category A nor that of category B, but that is either:
 - (A) Designed to transport sixteen or more passengers; or
 - (B) Used in the transportation of hazardous materials that require the vehicle to comply with Title 49 Code of Federal Regulations, part 172, subpart F.

(c) A commercial learner’s permit may be issued with any one or more of the following endorsements and restrictions:

- (1) “P” – Authorizes driving passenger carrying vehicles; a commercial learner’s permit holder with a “P” endorsement is prohibited from operating a commercial motor vehicle carrying passengers, other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver’s license holder accompanying the commercial learner’s permit holder; this endorsement is vehicle class specific;
- (2) “N” – Authorizes driving tank vehicles; a commercial learner’s permit holder with an “N” endorsement may only operate with an empty tank vehicle and is prohibited from operating any tank vehi-

cle that previously contained hazardous materials that has not been purged of all residue;

- (3) “S” – Authorizes driving school buses; a commercial learner’s permit holder with an “S” endorsement is prohibited from operating a commercial motor vehicle carrying passengers, other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver’s license holder accompanying the commercial learner’s permit holder; this endorsement is vehicle class specific;
- (4) “P” – Restricts the driver from carrying passengers other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver’s license holder accompanying the commercial learner’s permit holder; or
- (5) “X” – Restricts the driver from carrying cargo in a commercial motor vehicle tank and prohibits operating any tank vehicle that previously contained hazardous materials that has not been purged of any residue.

(d) If the commercial learner’s permit is a non-domiciled commercial learner’s permit, it must contain the prominent statement that the permit is a “non-domiciled commercial learner’s permit”, or “non-domiciled CLP”, as appropriate; the word “non-domiciled” shall be conspicuously and unmistakably displayed, but may be noncontiguous with the words “commercial learner’s permit”, or “CLP”.

(e) Before issuing a commercial learner’s permit, the examiner of drivers shall complete a check of the applicant’s driving record as provided in section 286-239(e) or (h).”

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

“(c) No person shall receive a driver’s license without surrendering to the examiner of drivers all valid driver’s licenses and all valid identification cards in the person’s possession. All licenses and identification cards so surrendered shall be ~~returned to the issuing authority, together with information that the person is licensed in this State;~~ shredded; provided that with the exception of driver’s licenses issued by any Canadian province, a foreign driver’s license may be returned to the owner after being invalidated pursuant to issuance of a Hawaii license; ~~and~~ provided further that the examiner of drivers shall notify the authority that issued the foreign license that the license has been invalidated and returned because the owner is now licensed in this State[-]; ~~and provided further that all commercial driver’s licenses that are surrendered shall be shredded.~~ No person shall be permitted to hold more than one valid driver’s license at any time.”

SECTION 3. Section 286-231, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read:

““Non-domiciled commercial learner’s permit” means a commercial learner’s permit issued by a state under either of the following two conditions:

- (1) To an individual domiciled in a foreign country meeting the requirements of Title 49 Code of Federal Regulations section 383.23(b)(1);
or
- (2) To an individual domiciled in another state meeting the requirements of Title 49 Code of Federal Regulations section 383.23(b)(2).

“Tank vehicle” means any commercial vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than one hundred nineteen gallons and an aggregate rated capacity of one thousand gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation with a rated capacity of one thousand gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.”

2. By amending the definitions of “endorsement”, “nonresident commercial driver’s license”, “serious traffic violation”, and “texting” to read:

““Endorsement” means an authorization on an individual’s commercial driver’s license or commercial learner’s permit required to permit the individual to operate certain types of commercial motor vehicles.

~~“Nonresident”~~ “Non-domiciled commercial driver’s license” means a commercial driver’s license issued by a state under either of the following two conditions:

- (1) To an individual domiciled in a foreign country meeting the requirements of Title 49, Code of Federal Regulations ~~[Section]~~ section 383.23(b)(1); or
- (2) To an individual domiciled in another state meeting the requirements of Title 49, Code of Federal Regulations ~~[Section]~~ section 383.23(b)(2).

“Serious traffic violation” means conviction of any of the following offenses when operating a commercial motor vehicle, except for weight, defect, and parking violations:

- (1) Excessive speeding involving any single offense for any speed of fifteen miles per hour or more above the posted speed limit;
- (2) Reckless driving or driving a commercial motor vehicle in disregard of the safety of persons or property, including but not limited to offenses of driving a commercial motor vehicle in wilful or wanton disregard for the safety of persons or property;
- (3) Improper or erratic traffic lane changes;
- (4) Following a vehicle ahead too closely;
- (5) A violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal traffic accident;
- (6) Driving a commercial motor vehicle without obtaining a commercial learner’s permit or a commercial driver’s license;
- (7) Driving a commercial motor vehicle without a commercial learner’s permit or a commercial driver’s license in the driver’s possession; provided that this paragraph shall not apply to a citation issued under, or an offense disposed of pursuant to section 286-116(a) or a substantially similar provision of law in another state;
- (8) Driving a commercial motor vehicle without the proper class or endorsements of commercial driver’s license or commercial learner’s permit for the specific vehicle group being operated or for the passengers or type of cargo being transported; ~~[or]~~
- (9) Texting while driving in violation of a state or county law or ordinance~~[-];~~ or
- (10) Using a mobile electronic device in violation of a state or a county law or ordinance.

“Texting” means manually entering alphanumeric text into, or reading text from, an electronic device, and includes short message service; e-mailing; instant messaging; a command or request to access a world wide web page; press-

ing more than a single button to initiate or terminate a voice communication using a mobile telephone; and engaging in any other form of electronic text retrieval or entry, for present or future communication.

“Texting” does not include:

- (1) Reading, selecting, or entering a telephone number, an extension number, or voicemail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a phone call or using voice commands to initiate or receive a telephone call;
- (2) Inputting, selecting, or reading information on a global positioning system or navigation system^[;] or pressing a single button to initiate or terminate a voice communication using a mobile telephone; or
- (3) Using a device capable of performing multiple functions, including fleet management systems, dispatching devices, smart phones, citizens band radios, and music players, for a purpose that is not otherwise prohibited ~~[in this part].~~”

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 or a commercial learner’s permit 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 or a commercial learner’s permit 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, require, permit, or authorize a driver to drive a commercial motor vehicle:

- (1) During any period 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;
- (2) During any period in which the driver has more than one driver’s license;
- (3) During any period in which the driver, or the commercial motor vehicle the driver is driving, or the motor carrier operation, is subject to an out-of-service order; ~~[or]~~
- (4) During any period in which the driver does not have a current commercial learner’s permit or commercial driver’s license or does not have the proper class, restrictions, and endorsements; or
- ~~[(4)]~~ (5) In violation of a federal, state, or local law or regulation pertaining to railroad-highway grade crossings.”

SECTION 6. Section 286-235, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No person shall drive a commercial motor vehicle unless the person holds a valid commercial driver’s license and valid applicable endorsements and restrictions for the vehicle the person is driving, except when driving under a commercial [~~driver’s instruction~~] learner’s permit and accompanied by the holder of a valid commercial driver’s license for the vehicle being driven.”

SECTION 7. Section 286-236, Hawaii Revised Statutes, is amended to read as follows:

“§286-236 Commercial driver’s license qualification standards. (a) No person shall be issued a commercial driver’s license unless that person meets the qualification standards of Title 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 that complies with minimum federal standards established by federal regulation enumerated in Title 49 Code of Federal Regulations, Part 383, Subparts G and H, is domiciled in this State as defined in Title 49 Code of Federal Regulations, Part 383.5, and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act of 1986, Public Law 99-570, Title XII, 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. The test examiners shall communicate with the applicant only in English during the skills test. As of January 30, 2012, the examiner of drivers shall verify that the medical certification status of a driver who self-certified according to Title 49 Code of Federal Regulations section 383.71(a) (1) (ii) (A), non-excepted interstate, is certified. If a driver submits a current medical examiner’s certificate, the examiner of drivers shall date-stamp the certificate and post all required information to the commercial driver’s license information system pursuant to Title 49 Code of Federal Regulations section 383.73(a)(5) and in accordance with Title 49 Code of Federal Regulations section 383.73(j). A person who is not physically qualified to drive under Title 49 Code of Federal Regulations section 391.41(b)(1), (2), or (3) 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 Title 49 Code of Federal Regulations section 391.49, except that the intrastate waiver requests shall be submitted to the director; provided that the director shall adopt rules under chapter 91 to establish a screening process, including approval by a licensed physician, for granting an intrastate waiver to persons who are not physically qualified under Title 49 Code of Federal Regulations section 391.41(b)(3).

(b) Pursuant to chapter 91, the director may authorize a third party examiner to administer the driving skills test specified in this section, provided:

- (1) The test is the same as that administered by the respective county examiners of drivers; and
- (2) The third party examiner has entered into an agreement with the State which complies with requirements of Title 49 Code of Federal Regulations, [Section] section 383.75.

(c) The examiner of drivers may waive the driving skills test specified in this section for a commercial driver’s license applicant who meets the requirements of Title 49 Code of Federal Regulations [Section] section 383.77 or 383.123(b).

(d) A commercial driver’s license or commercial [~~driver’s instruction~~] learner’s permit, including a provisional or temporary license or permit, shall not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person’s driver’s license is sus-

pending, revoked, or canceled in any state; or while the person holds a driver's license issued by any other state unless the person first surrenders that license.

(e) A commercial ~~[driver's instruction]~~ learner's permit may be issued to an individual who holds a valid driver's license, is at least eighteen years of age, meets the qualification standards of Title 49 Code of Federal Regulations, Part 391, Subparts B and E, and has passed the written tests required for the desired class of a commercial driver's license.

(f) The commercial ~~[driver's instruction]~~ learner's permit shall not be valid for a period in excess of ~~[one year.]~~ one hundred eighty days. When driving a commercial motor vehicle, the holder of a commercial ~~[driver's instruction]~~ learner's permit shall be accompanied by a person ~~[licensed]~~ with a valid commercial driver's license to operate that category of commercial motor vehicle[-] with the proper endorsements. The licensed person shall occupy the seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle. The commercial learner's permit may be ~~[reissued after]~~ renewed no more than an additional one hundred eighty days without requiring the commercial learner's permit holder to retake the general or endorsement knowledge tests, and the applicant requalifies meeting the requirements of subsection (e). The commercial learner's permit holder is eligible to take the commercial driver's license skills test no earlier than fourteen days after obtaining the permit.

(g) The examiner of drivers may waive the knowledge and skills tests specified in this section for any person who is at least twenty-one years of age and who possesses a valid commercial driver's license issued by any state of the United States, Mexico, or a province of Canada that issues licenses in accordance with the minimum federal standards for the issuance of commercial driver's licenses. The examiner of drivers shall accept the test scores of a Hawaii commercial learner's permit holder who completes training in another state in the United States and is tested in compliance with federal motor carrier safety regulations by that state in association with the training. The testing state shall electronically transmit in a secure manner the skills test results directly to the examiner of drivers, and if the applicant passed, and meets all other requirements, a Hawaii commercial driver's license shall be issued. To retain a hazardous materials endorsement, the applicant shall pass the knowledge test for a hazardous materials endorsement and be determined by the federal Transportation Security Administration not to pose a security risk warranting denial of the endorsement.

(h) Every applicant shall successfully complete the commercial driver's license general knowledge test before being issued a commercial learner's permit. A driver holding a valid commercial driver's license who seeks an upgrade for which a skills test is required shall also pass the appropriate knowledge test prior to obtaining a commercial learner's permit."

SECTION 8. Section 286-238, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The application for a commercial driver's license or commercial ~~[driver's instruction]~~ learner's permit shall include the following with respect to the applicant:

- (1) The full name and current mailing, residential, and business addresses;
- (2) A physical description including sex and height;
- (3) Date of birth;
- (4) Social security number;
- (5) Signature;

- (6) Color photograph[;], digitized color image, or black and white laser-engraved photograph of the driver;
- (7) Certifications including those required by Title 49 Code of Federal Regulations[; §] section 383.71(a), except that this certification applies to both intrastate and interstate drivers;
- (8) The names of all states where the applicant has previously been licensed to drive any type of motor vehicle during the previous ten years; and
- (9) Any other information required by section 286-111.

The applicant shall produce proof of residency to show the applicant's state of domicile as defined in Title 49 Code of Federal Regulations [~~Part~~] section 383.5."

SECTION 9. Section 286-239, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) The commercial driver's license shall be marked "CDL" and, to the maximum extent practicable, shall be tamper-proof and include, but not be limited to, the following with respect to the licensee:

- (1) The name and residence address;
- (2) A color photograph[;], digitized color image, or black and white laser-engraved photograph of the driver;
- (3) A physical description including sex and height;
- (4) Date of birth;
- (5) A commercial driver's license number that shall not be the licensee's social security number;
- (6) Signature;
- (7) The class or type of commercial motor vehicle or vehicles [~~which~~] that may be driven together with any endorsements or restrictions;
- (8) The name of this State; and
- (9) The issuance and expiration dates of the license."

2. By amending subsection (c) to read:

"(c) Commercial drivers' licenses may be issued with any one or more of the following endorsements and restrictions:

- (1) "H" - Authorizes the driver to drive a vehicle transporting hazardous materials;
- (2) [~~"K"~~] "L" - Restricts the driver to vehicles not equipped with air brakes;
- (3) "T" - Authorizes driving double and triple trailers;
- (4) "P" - Authorizes driving vehicles carrying passengers;
- (5) "N" - Authorizes driving tank vehicles;
- (6) "X" - Represents a combination of hazardous materials and tank vehicle endorsements;
- (7) "S" - Authorizes driving school buses;
- (8) "V" - Indicates there is information about a medical variance on the commercial driver's license information system driver record; [~~and~~]
- (9) [~~"W"~~] "K" - Restricts the driver from operating in interstate commerce as defined in Title 49 Code of Federal Regulations section 390.5[;];
- (10) "Z" - Restricts the driver to vehicles not equipped with full air brakes;
- (11) "E" - Restricts the driver to vehicles not equipped with any manual transmission;
- (12) "O" - Restricts the driver to non-tractor trailer commercial motor vehicles;

- (13) “M” – Restricts the driver from operating a class A passenger vehicle; and
- (14) “N” – Restricts the driver from operating a class A and B passenger vehicle.”

SECTION 10. Section 286-240, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The examiner of drivers shall disqualify any person 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 motor vehicle under the influence of alcohol, a controlled substance, or any drug that impairs driving ability;
- (2) Driving a commercial motor vehicle while the alcohol concentration of the driver’s blood is 0.04 or more grams of alcohol per two hundred ten liters of breath or 0.04 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood;
- (3) Refusing to submit to a test to determine the driver’s alcohol concentration while driving a motor vehicle as required under sections 286-243 and 291E-11;
- (4) Using a motor vehicle in the commission of any felony;
- (5) Leaving the scene of an accident involving the motor vehicle driven by the person;
- (6) Unlawful transportation, possession, or use of a controlled substance while on duty;
- (7) Driving a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver’s commercial driver’s license or commercial learner’s permit is revoked, suspended, or canceled, or the driver is otherwise disqualified from operating a commercial motor vehicle; or
- (8) Causing a fatality through the operation of a commercial motor vehicle, including through the commission of the crimes of manslaughter and negligent homicide in any degree.”

2. By amending subsection (f) to read:

“(f) The examiner of drivers shall disqualify any person 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 or a commercial learner’s permit holder or applicant for a commercial driver’s license or commercial learner’s permit has falsified information or failed to report or disclose required information either before or after issuance of a commercial driver’s license[-] or a commercial learner’s permit.”

SECTION 11. Section 286-241, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) After disqualifying a person, or suspending, revoking, canceling, or marking a medical certification status as not-certified for a commercial driver’s license or a commercial learner’s permit, the examiner of drivers shall update all records to reflect that action within ten days. Any disqualification imposed in accordance with section 286-240(j) and transmitted by the Federal Motor Carrier Safety Administration shall become a part of the driving record. After suspending, revoking, or canceling a nonresident commercial driver’s license or commercial learner’s permit, the examiner of drivers shall notify the licensing authority of the state that issued the commercial driver’s license or commercial learner’s permit within ten days. The notification shall include information regarding any

disqualification and the violation or violations that resulted in the disqualification, revocation, suspension, or cancellation.”

SECTION 12. Section 286-241.4, Hawaii Revised Statutes, is amended by amending subsections (a) through (c) to read as follows:

“(a) The examiner of drivers may suspend, revoke, cancel, mark the medical certification status as not-certified, or downgrade any commercial driver’s license or commercial learner’s permit without a hearing when the examiner of drivers has probable cause to believe that the licensee or permittee is disqualified under section 286-240.

(b) The examiner of drivers shall deny or suspend any commercial driver’s license or commercial learner’s permit pursuant to the terms of ~~[[section]]~~ 576D-13 when the examiner of drivers receives certification from the child support enforcement agency that the licensee or permittee is not in compliance with an order of support as defined in section 576D-1 or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding. Both the licensee or permittee and the licensee’s or permittee’s employer shall be notified of the denial or suspension.

(c) Upon suspension, revocation, or cancellation of the commercial driver’s license or commercial learner’s permit, the driver’s license or learner’s permit shall be surrendered to the examiner of drivers by the licensee or permittee.”

SECTION 13. Section 286-241.5, Hawaii Revised Statutes, is amended to read as follows:

“**§286-241.5 Notification and hearing.** When the examiner of drivers suspends, revokes, or cancels a commercial driver’s license or a commercial learner’s permit under section 286-241.4(a), the examiner of drivers shall immediately notify the licensee or permittee and afford the licensee or permittee an opportunity for a hearing.”

SECTION 14. Section 286-244, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Whenever a person who holds a commercial driver’s license or a commercial learner’s permit from another state is convicted of a violation of any state or county law relating to motor vehicle traffic control, other than a parking violation, in any type of vehicle, the examiner of drivers shall notify the licensing or permitting entity in the state where the driver is licensed or permitted of this conviction within the time period specified in subsection (c).

(b) Whenever a person who does not hold a commercial driver’s license or a commercial learner’s permit but is licensed to drive by another state is convicted of a violation in a commercial motor vehicle of any state or county law relating to motor vehicle traffic control, other than a parking violation, the examiner of drivers shall notify the licensing entity in the state where the driver is licensed of this conviction within the time period specified in subsection (c).”

SECTION 15. Section 286-245, Hawaii Revised Statutes, is amended by amending subsections (a) through (c) to read as follows:

“(a) Whenever a person is convicted of a moving traffic violation based on a statute, ordinance, or rule, fails to appear for a hearing, trial, or other court or administrative proceeding on the moving traffic violation, or fails to pay a fine or court cost ordered for a moving violation, the state judiciary shall forward to the examiner of drivers the record of the conviction. The record of conviction shall include whether the offender was operating a commercial motor vehicle at the time of the offense, whether the offender was transporting hazardous materi-

als requiring placarding under Title 49 Code of Federal Regulations Part 172, Subpart F, the citation date, the conviction date, the citation number, the court in which the conviction occurred, and the offenses for which the person has been convicted. No record of conviction transmitted and maintained in the statewide traffic records system shall be used for purposes other than the licensing of drivers, including any record of:

- (1) Driving a motor vehicle under the influence of alcohol, a controlled substance, or any drug that 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;~~] or more grams of alcohol per two hundred ten liters of breath or 0.04 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood;
 - (3) Refusing to submit to a test to determine the driver's alcohol concentration while driving a motor vehicle as required under sections 286-243 and 291E-11;
 - (4) Using a motor vehicle in the commission of any felony;
 - (5) Leaving the scene of an accident involving the motor vehicle driven by the person;
 - (6) Unlawful transportation, possession, or use of a controlled substance while on duty;
 - (7) Driving a commercial motor vehicle if, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial learner's permit or commercial driver's license has been revoked, suspended, or canceled, or the driver has been otherwise disqualified from operating a commercial motor vehicle; or
 - (8) Causing a fatality through the operation of a commercial motor vehicle, including in the commission of the crimes of manslaughter and negligent homicide in any degree.
- (b) Within ten days of an in-state conviction and within ten days of the receipt of notice of an out-of-state conviction, the examiner of drivers shall record and maintain as part of the driver's record:
- (1) All convictions, disqualifications, and other licensing actions for violations in this State and out-of-state, of any law relating to motor vehicle traffic control, other than a parking violation, committed in any type of vehicle, by a holder of a commercial learner's permit or a commercial driver's license; and
 - (2) All convictions, disqualifications, and other licensing actions for violations in this State and out-of-state, of any law relating to motor vehicle traffic control, other than a parking violation, committed while the driver was operating a commercial motor vehicle and was required to have a commercial learner's permit or commercial driver's license.
- (c) No commercial learner's permit or commercial driver's license driver's conviction for any violation in any type of motor vehicle of a state or local traffic control law, except a parking violation, shall be expunged or subject to deferred imposition of judgment nor shall an individual be allowed to enter into a diversion program that would prevent the conviction from appearing on the driver's driving record, whether the driver was convicted for an offense committed in this State or another state."

SECTION 16. 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 or a non-domiciled commercial learner’s permit 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, for training purposes, and is accompanied by the holder of a valid commercial driver’s license for the vehicle being driven, if the person’s driver’s license or commercial learner’s permit 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 17. Section 286-249, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any person who drives a commercial motor vehicle in the State without a valid commercial driver’s license or commercial learner’s permit, or while the person’s driving privileges are suspended, revoked, or canceled, or while disqualified from driving a commercial motor vehicle, 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.”

SECTION 18. Section 286-2, Hawaii Revised Statutes, is amended by deleting the definition of “tank vehicle”.

~~[““Tank vehicle” means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include but are not limited to cargo tanks and portable tanks, as defined in Title 49 Code of Federal Regulations Part 171. This definition does not include portable tanks having a rated capacity under one thousand gallons.”]~~

SECTION 19. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 20. This Act shall take effect on July 1, 2013.

(Approved June 14, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.