

ACT 136

H.B. NO. 2492

A Bill for an Act Relating to Commercial Driver's Licenses.

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

SECTION 1. The purpose of this Act is to amend existing law to meet new federal requirements relating to the issuance, renewal, transfer, or upgrade of commercial driver's licenses and commercial learner's permits.

SECTION 2. 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:

- (1) Meets the qualification standards of title 49 Code of Federal Regulations, part 391, subparts B and E;

- (2) 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;
- (3) Is domiciled in ~~[this]~~ the State as defined in title 49 Code of Federal Regulations, part 383.5; and
- (4) 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(b)(1)(i), 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(b)(5) and in accordance with title 49 Code of Federal Regulations section 383.73(o). A person who is not physically qualified to drive under title 49 Code of Federal Regulations section 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 title 49 Code of Federal Regulations section 391.49~~[-except]~~; provided that the intrastate waiver requests shall be submitted to the director.

(b) 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 383.77 or 383.123(b).

(c) A commercial driver's license or commercial 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 suspended, 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.

(d) A commercial 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.

(e) The commercial learner's permit shall not be valid for a period in excess of one hundred eighty days from the date that the applicant passes the general and all required endorsement knowledge tests; provided that, if the applicant is not required to take a knowledge test, the period shall start when the permit is issued. When driving a commercial motor vehicle, the holder of a commercial learner's permit shall be accompanied by a person 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 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 (d). 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.

(f) 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.

(g) 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 before obtaining a commercial learner's permit. Beginning February 7, 2022, except for a driver holding a valid ~~commercial learner's permit or~~ commercial driver's license or commercial learner's permit that was obtained before February 7, 2022, every applicant shall complete the entry-level driver training requirements as specified in title 49 Code of Federal Regulations part 380, subpart F, and be verified with the Federal Motor Carrier Safety Administration Training Provider Registry before taking the skills test for a class A or class B commercial driver's license, passenger endorsement, or school bus endorsement, and before taking the knowledge test for a hazardous materials endorsement.

(h) Beginning November 18, 2024, the examiner of drivers shall not issue, renew, transfer, or upgrade a commercial driver's license; renew the hazardous materials endorsement; or issue, renew, or upgrade a commercial learner's permit; if the results of a query to the Federal Motor Carrier Safety Administration's Drug and Alcohol Clearinghouse is that the driver is prohibited from operating a commercial motor vehicle."

SECTION 3. Section 286-240, Hawaii Revised Statutes, is amended to read as follows:

“§286-240 Disqualification, cancellation, and downgrade. (a) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for a period of no 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.

(b) The examiner of drivers shall disqualify any person for a period of no 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 under title 49 Code of Federal Regulations, part 172, subpart F, is being transported.

(c) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for life if the person is convicted two or more times for any of the offenses listed in subsection (a).

(d) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for life if the person uses a 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) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for a period of no less than sixty days if the person is convicted of two serious traffic violations, or one hundred twenty days if the person is convicted of three serious traffic violations; provided that the violations are committed in a commercial motor vehicle and arise from separate incidents occurring within a three-year period. The one hundred twenty-day disqualification period required for a third conviction within three years of a serious traffic violation, as defined in section 286-231, shall be in addition to any other previously imposed period of disqualification. The disqualification periods specified in this subsection shall also apply to offenses committed while operating a non-commercial motor vehicle only if the conviction for the offense results in the revocation, cancellation, or suspension of the driver's license.

(f) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle or from resubmitting an application for a period of no 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.

(g) If the examiner of drivers receives credible information that a commercial driver's license or commercial learner's permit holder is suspected, but has not been convicted, of fraud related to the issuance of the commercial driver's license or commercial learner's permit, the examiner of drivers shall require the driver to re-take the skills or knowledge tests or both. Within thirty days of receiving notification from the examiner of drivers that re-testing is necessary, the affected commercial driver's license or commercial learner's permit holder shall make an appointment or otherwise schedule to take the next available test:

- (1) If the commercial driver's license or commercial learner's permit holder fails to make an appointment within thirty days, the examiner of drivers shall disqualify the commercial driver's license or commercial learner's permit indefinitely until the applicant reapplies; or
- (2) If the driver fails either the knowledge or skills test or does not take the test, the examiner of drivers shall disqualify the commercial

driver's license or commercial learner's permit indefinitely until the applicant reapplies. Once a commercial driver's license or commercial learner's permit holder's commercial driver's license or commercial learner's permit has been disqualified, the driver or learner shall reapply for a commercial driver's license or commercial learner's permit under state procedures applicable to all commercial driver's license or commercial learner's permit applicants.

(h) The examiner of drivers shall invalidate the commercial driver's license or commercial learner's¹ permit of a person who has been convicted of fraud relating to the issuance of that commercial driver's license or commercial learner's permit, as well as the application of a person so convicted who seeks to renew, transfer, or upgrade the fraudulently obtained commercial driver's license or commercial learner's permit for a period of ~~not~~ no² less than one year.

(i) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for a period of no less than one hundred eighty days and no more than one year for a first violation, for at least two years and no more than five years for a second violation, and at least three years and no more than five years for a third or subsequent violation of a driver or vehicle out-of-service order committed in a commercial motor vehicle transporting non-hazardous materials arising from separate incidents occurring within a ten-year period.

(j) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for a period of no less than one hundred eighty days and no more than two years for a first violation and for at least three years and no more than five years for any subsequent violation of a driver or vehicle out-of-service order committed in a commercial motor vehicle transporting hazardous materials required to be placarded under title 49 Code of Federal Regulations, part 172, subpart F, or designed to transport sixteen or more occupants including the driver; provided that each violation arises from separate incidents occurring within a ten-year period.

(k) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for a period of no less than sixty days if the person is convicted of a first violation, no less than one hundred twenty days if the person is convicted of a second violation during any three-year period, and no less than one year if the person is convicted of a third or subsequent violation during any three-year period of a federal, state, or local law or regulation pertaining to one of the following six offenses at a railroad-highway grade crossing:

- (1) For all drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;
- (2) For all drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;
- (3) For all drivers who are always required to stop, failing to stop before driving onto the crossing;
- (4) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;
- (5) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing; or
- (6) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(l) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle if the driver's driving is determined to constitute an imminent hazard, as defined in section 286-231 and in accordance with the provisions of title 49 Code of Federal Regulations section 383.52.

(m) Beginning January 30, 2014, if a driver fails to provide the examiner of drivers with the certification required under title 49 Code of Federal Regulations section 383.71(b)(1) or a current medical examiner's certificate if the driver self-certifies according to title 49 Code of Federal Regulations section 383.71(b)(1)(i) that the driver is operating in non-excepted interstate commerce as required by title 49 Code of Federal Regulations section 383.71(h), the examiner of drivers shall mark the commercial driver's license information system driver record as not-certified and initiate a commercial driver's license downgrade.

(n) The examiner of drivers shall permanently disqualify any person from driving a commercial motor vehicle for life without the possibility of reinstatement~~[.]~~ if the person uses a commercial motor vehicle in the commission of any felony involving severe forms of trafficking in persons.

(o) Beginning November 18, 2024, the State shall, upon receiving notification from the Federal Motor Carrier Safety Administration's Drug and Alcohol Clearinghouse that a commercial driver's license or commercial learner's permit holder is prohibited from operating a commercial motor vehicle, begin the process to downgrade the commercial driver's license or commercial learner's permit. The downgrade shall be completed and recorded on the commercial driver's license information system driver record within sixty days of the State's receipt of the notification as stated in title 49 Code of Federal Regulations section 383.73(q).

~~[(e)]~~ (p) As used in this section:

"Commercial sex act" means any sex act on account of which anything of value is given to or received by any person.

"Severe forms of trafficking in persons" means either sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform the act has not attained eighteen years of age; ~~[(e)]~~ the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 1, 2024.)

Notes

1. Prior to amendment "learner's" appeared here.
2. So in original.