



TEAMSTERS **Safety &** **Health** **FACTS**

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CHANGES TO THE COMMERCIAL DRIVER'S LICENSE

Through the passage of the Motor Carrier Safety Improvement Act of 1999, the U.S. Congress instructed the Federal Motor Carrier Safety Administration (FMCSA) to significantly revise the commercial driver's licensing program. In response to these instructions, the FMCSA issued a final rule to address the following:

- ♦ Disqualification of drivers for driving while suspended, disqualified, or causing a fatality;
- ♦ Emergency disqualification of drivers posing an imminent hazard;
- ♦ Expanding the definition of serious traffic violations;
- ♦ Extending driver record check;
- ♦ Notification requirements;
- ♦ Masking prohibition;
- ♦ Limitation on licensing; and
- ♦ Disqualification of commercial drivers for violations obtained while driving a non-commercial motor vehicle.

Emergency Disqualification of Drivers Posing an Imminent Hazard

The final rule allows for a driver who poses an imminent hazard to be disqualified from driving a commercial motor vehicle (CMV). The criteria upon which the FMCSA will make a determination of posing an "imminent hazard" will be derived from the following definition: "[An] imminent hazard means any condition of vehicle, employee, or commercial motor vehicle operations which substantially increases the likelihood of serious injury or death if not discontinued immediately."

The period of disqualification may not exceed 30 days unless the Assistant Administrator provides the driver a notice of proposed disqualification period of more than 30 days and an opportunity for a hearing to present a defense to the proposed disqualification.

Expanding Definition of Serious Traffic Violations

Serious traffic violation means the conviction of any of the following offenses when operating a

commercial motor vehicle, except weight, defect and parking violations:

- Excessive speeding, involving any single offense for any speed of 15 miles per hour or more above the posted speed limit;
- Reckless driving, as defined by State or local law or regulation, including but not limited to offenses of driving a CMV in willful or wanton disregard for the safety of persons or property;
- Improper or erratic traffic lane changes;
- Following the vehicle ahead too closely;
- FA violation, arising in connection with a fatal accident, of State or local law relating to motor vehicle traffic control;
- Driving a CMV without obtaining a CDL;
- Driving a CMV without a CDL in the driver's possession. Any individual who provides proof to the enforcement authority that issued the citation, by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CDL on the date the citation was issued, shall not be guilty of this offense, or
- Driving a CMV without the proper class of CDL and/or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.

Expanded Driver Record Check

Applicants for an initial CDL, and those transferring or renewing a CDL, must provide state driver licensing agency personnel with the name of all states where previously licensed for the past ten years to drive any type of motor vehicle, allowing state officials to obtain an applicant's complete driving record. The final rule limits this record check to CDL drivers initially renewing their license after the effective date of this rulemaking.

States must maintain a CDL driver-history record noting an individual's convictions for state or local motor vehicle traffic control laws while operating any type of motor vehicle. Information on these convictions and other licensing actions must be kept a minimum of three years. Disqualifying offenses range from three years to life.

Notification Requirements

States that disqualify a CDL holder licensed by another State, or revoke, suspend, or cancel an out-of-State CDL holder's privilege to operate a CMV for at least 60 days, must notify the State that issued the license of the disqualification, revocation, suspension, or cancellation, within 10 days.

Masking

States are now prohibited from masking, deferring imposition of judgment, or allowing an individual to enter into a diversion program that would prevent a CDL driver's conviction for any violation in any type of motor vehicle, of a State or local traffic control law from appearing on the driver's record, whether the driver was convicted for an offense committed in the State where the driver is licensed or another State.

Limitation on Licensing

A State may not knowingly issue a CDL or commercial special license or permit (including provisional or temporary license) permitting a person to drive a CMV during a period in which:

- ♦ A person is disqualified from operating a CMV;
- ♦ The CDL holder's non-commercial driving privilege has been revoked, suspended or canceled;
- ♦ Any type of driver's license held by such person is suspended, revoked or canceled by the State where the driver is licensed for any State or local law related to motor vehicle traffic control (excludes parking violations).

School Bus Endorsement

The new rule specifies applicants must pass both knowledge and skills tests to obtain a new school bus endorsement. The regulation requires the FMCSA to create a new endorsement CDL holders must obtain to operate a school bus.

States with a school bus-licensing program meeting or exceeding FMCSA requirements may continue to license school bus drivers with that program. States have the option to not require applicants for the school bus endorsement to take the skills test when the applicant has experience driving a school bus and meets safety criteria.

Non-Resident CDLs

Under the new regulation, a driver may apply for a CDL from another state if the state he lives in was decertified and if the other state to which he applies elects to issue that license. States are authorized, but not required, to issue nonresident CDLs to such drivers.

State Requirements

The FMCSA may prohibit a state from issuing, renewing, transferring, or upgrading CDLs if the agency determined the state is in substantial noncompliance with the CDL licensing and sanctioning requirements.

States must be connected to the Commercial Driver's License Information System (CDLIS) and the National Driver Register (NDR) to exchange information about CMV drivers and traffic convictions and disqualifications. A state must check CDLIS, NDR, and the current State of licensure before a CDL can be issued, renewed, upgraded, or transferred to make sure the driver is not disqualified or has a license from more than one state. Employers, including motor carriers, are authorized users of CDLIS data and, therefore, have access to an employees' or an applicants' driving record.

New notification requirements necessitate that states inform CDLIS and the state issuing the CDL no later than 10 days after disqualifying, revoking, suspending, or canceling a CDL, or refusing to allow someone for at least 60 days to operate a CMV. Beginning three years after the final rule's effective date, notification of traffic-violation convictions must occur within 30 days of the conviction. Six years after the final rule's effective date, notification of traffic violation convictions must occur within ten days of the conviction.

States whose CDL program may fail to meet compliance requirements, but are making a "good-faith effort" to comply with the CDL requirements, are eligible to receive emergency CDL grants.

Disqualification of Drivers for Violations in Non-CMV:

The final rule allows CDL drivers to be disqualified if they have been convicted of traffic offenses while operating a non-CMV, which result in their license being canceled, revoked or suspended; or of committing drug or alcohol-related offenses while driving a non-CMV. It also adds two new disqualifying offenses: driving a CMV after the driver's CDL was revoked, suspended or canceled for violations while operating a CMV and causing a fatality through the negligent or criminal operation of a CMV. The charts below summarize the violations and the associated penalties.

TABLE 1 TO § 383.51

If a driver operates a motor vehicle and is convicted of:	For a first conviction or refusal to be tested while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for. . .	For a first conviction or refusal to be tested while operating a non-CMV, a CDL holder must be disqualified from operating a CMV for . . .	For a first conviction or refusal to be tested while operating a CMV transporting hazardous materials required to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F), a person required to have a CDL and CDL holder must be disqualified from operating a CMV for . . .	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for. . .	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a non-CMV, a CDL holder must be disqualified from operating a CMV for. . .
(1) Being under the influence of alcohol as prescribed by State law * * *.	1 year.	1 year.	3 years.	Life.	Life.
(2) Being under the influence of a controlled substance * * *.	1 year.	1 year.	3 years.	Life.	Life.
(3) Having an alcohol concentration of 0.04 or greater while operating a CMV * * *.	1 year.	Not applicable.	3 years.	Life.	Not applicable.
(4) Refusing to take an alcohol test as required by a State or jurisdiction under its implied consent laws or regulations as defined in § 383.72 of this part * * *.	1 year.	1 year.	3 years.	Life.	Life.
(5) Leaving the scene of an accident * * *	1 year.	1 year.	3 years.	Life.	Life.
(6) Using the vehicle to commit a felony, other than a felony described in paragraph (b)(9) of this table * * *.	1 year.	1 year.	3 years.	Life.	Life.
(7) Driving a CMV when, as a result of prior violations committed operating a CMV, the driver's CDL is revoked, suspended, or canceled, or the driver is disqualified from operating a CMV.	1 year.	Not applicable.	3 years.	Life.	Not applicable.

TABLE 1 TO § 383.51 (Continued)

If a driver operates a motor vehicle and is convicted of:	For a first conviction or refusal to be tested while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for. . .	For a first conviction or refusal to be tested while operating a non-CMV, a CDL holder must be disqualified from operating a CMV for . . .	For a first conviction or refusal to be tested while operating a CMV transporting hazardous materials required to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F), a person required to have a CDL and CDL holder must be disqualified from operating a CMV for . . .	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for. . .	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a non-CMV, a CDL holder must be disqualified from operating a CMV for. . .
(8) Causing a fatality through the negligent operation of a CMV, including but not limited to the crimes of motor vehicle manslaughter, homicide by motor vehicle and negligent homicide.	1 year.	Not applicable.	3 years.	Life.	Not applicable.
(9) Using the vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance * * *.	Life—not eligible for 10-year reinstatement.	Life—not eligible for 10-year reinstatement.	Life—not eligible for 10-year reinstatement.	Life—not eligible for 10-year reinstatement.	Life—not eligible for 10-year reinstatement.

TABLE 2 TO § 383.51

If the driver operates a motor vehicle and is convicted of:	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for...	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a non-CMV, a CDL holder must be disqualified from operating a CMV for...	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for...	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a non-CMV, a CDL holder must be disqualified from operating a CMV for...
(1) Speeding excessively, involving any speed of 24.1 kmph (15 mph) or more above the posted speed limit * * *.	60 days.	60 days.	120 days.	120 days.
(2) Driving recklessly, as defined by State or local law or regulation, including but, not limited to, offenses of driving a motor vehicle in willful or wanton disregard for the safety of persons or property * * *.	60 days.	60 days.	120 days.	120 days.
(3) Making improper or erratic traffic lane changes * * *.	60 days.	60 days.	120 days.	120 days.
(4) Following the vehicle ahead too closely * * *.	60 days.	60 days.	120 days.	120 days.
(5) Violating State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with a fatal accident * * *.	60 days.	60 days.	120 days.	120 days.
(6) Driving a CMV without obtaining a CDL	60 days.	Not applicable.	120 days.	Not applicable.
(7) Driving a CMV without a CDL in the driver's possession ¹ .	60 days.	Not applicable.	120 days.	Not applicable.
(8) Driving a CMV without the proper class of CDL and/or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.	60 days.	Not applicable.	120 days.	Not applicable.

¹ Any individual who provides proof to the enforcement authority that issued the citation, by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CDL on the date the citation was issued, shall not be guilty of this offense.

TABLE 3 TO § 383.51

If the driver is convicted of operating a CMV in violation of a Federal, State or local law because . . .	For a first conviction a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for . . .	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for . . .	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for . . .
(1) The driver is not required to always stop, but fails to slow down and check that tracks are clear of an approaching train * * *.	No less than 60 days.	No less than 120 days.	No less than 1 year.
(2) The driver is not required to always stop, but fails to stop before reaching the crossing, if the tracks are not clear * * *.	No less than 60 days.	No less than 120 days.	No less than 1 year.
(3) The driver is always required to stop, but fails to stop before driving onto the crossing * * *.	No less than 60 days.	No less than 120 days.	No less than 1 year.
(4) The driver fails to have sufficient space to drive completely through the crossing without stopping * * *.	No less than 60 days.	No less than 120 days.	No less than 1 year.
(5) The driver fails to obey a traffic control device or the directions of an enforcement official at the crossing * * *.	No less than 60 days.	No less than 120 days.	No less than 1 year.
(6) The driver fails to negotiate a crossing because of insufficient undercarriage clearance * * *.	No less than 60 days.	No less than 120 days.	No less than 1 year.

TABLE 4 TO § 383.51

If the driver operates a CMV and is convicted of . . .	For a first conviction while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for . . .	For a second conviction in a separate incident within a 10-year period while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for . . .	For a third or subsequent conviction in a separate incident within a 10-year period while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for . . .
(1) Violating a driver or vehicle out-of-service order while transporting nonhazardous materials . . .	No less than 90 days or more than 1 year	No less than 1 year or more than 5 years	No less than 3 years or more than 5 years
(2) Violating a driver or vehicle out-of-service order while transporting hazardous materials required to be placarded under part 172, subpart F of this title, or while operating a vehicle designed to transport 16 or more passengers, including the driver . . .	No less than 180 days or more than 2 years	No less than 3 years or more than 5 years	No less than 3 years or more than 5 years