

UPCOMING TRAININGS & CONFERENCES

- **NDAA Prosecuting Homicide Cases: Inside the Mind of a Killer**
Scottsdale, AZ / May 6–10, 2019
- **NDAA Career Prosecutor Course**
Cambridge, MA / May 13–22, 2019
- **NDAA / NCJA Grants Management Training**
Atlanta, GA / May 14–15, 2019
- **NDAA Executive Course**
Washington, DC / June 10–14, 2019
- **NDAA / NTLC CDL Conference**
Orlando, FL / June 18–20, 2019
- **NDAA Summer Summit: Innovations in Prosecution**
Quebec City, Canada / July 24–25, 2019
- **NDAA The Role of the Juvenile Prosecutor**
Columbia, SC / July 31–August 2, 2019
- **IACP Drugs, Alcohol and Impaired Driving**
Anaheim, CA / August 10–12, 2019



NDAA STAFF

Executive Director
Nelson O. Bunn, Jr.

Chief Operating Officer
Christine Mica

THE NATIONAL TRAFFIC LAW CENTER

Director
Joanne E. Thomka: jthomka@ndaajustice.org

Senior Attorneys
M. Kimberly Brown: mkbrown@ndaajustice.org
Romana Lavalas: rlavalas@ndaajustice.org

Staff Attorneys
Tiffany Watson: twatson@ndaajustice.org
Jeanine Howard: jhoward@ndaajustice.org
Peter Grady: pgrady@ndaajustice.org

Project Coordinator
Metria Hernandez

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STATE MASKING STATUTE COMPILATION — CDL ENFORCEMENT

By Jeanine Howard, Staff Attorney

Prosecutors adjudicate several types of cases throughout their careers, among the most challenging are cases related commercial driver's license (CDL) holders. Prosecutors are sometimes unaware of the additional federal requirements that exist when handling cases that involve CDL holders. An important federal regulation that local and state prosecutors should be aware of is 49 C.F.R. §384.226: Prohibition on Masking convictions. Under this regulation, "the State must not mask, defer imposition of judgment, or allow an individual to enter into a

diversion program that would prevent a commercial learner's permit (CLP) or CDL holder's conviction for any violation, in any type of motor vehicle, of a State or local traffic control law (other than parking, vehicle weight, or vehicle defect violations) from appearing on the CDLIS driver record, whether the driver was convicted for an offense committed in the State where the driver is licensed or another State.” In addition, each state is required to adopt this regulation under 49 U.S.C.A. § 31311 and 49 C.F.R. §384.301. This compilation provides information about state statutes that comply with the Federal mandate. Since state legislatures meet at varying times around the nation, any information in this compilation could change. Users are encouraged to use this compilation as a starting point when researching state CDL laws. Be aware that state terminology may differ and there are several states where Masking statutes (or any similar adoption of this federal regulation) are not in place. Even without any state adoption, however, Masking is still prohibited by Federal law.

NTLC Masking Quick Reference Guide

The NTLC also provides a [Masking Quick Reference Guide](#) available for use as a reference. For a copy of the full (31 page) compilation or the Masking Quick Reference Guide, visit NDAA's webpage at www.ndaa.org and use the “Technical Assistance” tab to request a copy.

STATE	STATUTORY LANGUAGE
ALABAMA	<p>Alabama Uniform Commercial Driver License Act: Code of Ala. §32-6-49.1— §32-6-49.24</p> <p>Code of Ala. §32-9A-2: Compliance with Federal Motor Carrier Safety Regulations</p> <p>(a)</p> <p>(1) Except as otherwise provided in subsection (b), no person may operate a commercial motor vehicle in this state, or fail to maintain required records or reports, in violation of the federal motor carrier safety regulations as prescribed by the U.S. Department of Transportation, 49 C.F.R. Part 107, Parts 171-180, Parts 382-387, and Parts 390-399 and as they may be amended in the future. Except as otherwise provided herein, this chapter shall not be construed to repeal or supersede other laws relating to the operation of motor vehicles.</p> <p>Code of Ala. §32-6-49.23: Eligibility for a deferred prosecution program, diversion program, or deferred imposition of judgment program.</p> <p>A holder of a commercial driver's license, an operator of a commercial motor vehicle, or a commercial driver learner permit holder who is charged with a violation of a traffic law in this state shall not be eligible for a deferred prosecution program, diversion program, or any deferred imposition of judgment program.</p>

ALASKA**Alaska Administrative Code:****Title 2: Chapter 90: Article 5. Traffic Offenses Demerit Point System****2 AAC 90.320**

(c) A commercial driver license holder convicted, in this state or in another state, of a violation committed while operating any type of vehicle, may not mask, defer imposition of judgment, or enter into a diversion program to prevent the violation of a state or local traffic control law, except a parking violation, from appearing on the driving record.

ARIZONA**A.A.C. §R17-5-202. Motor Carrier Safety: Incorporation of Federal Regulations; Applicability**

- (a) The Department incorporates by reference 49 CFR 40, 379, 382, 383, 385, 390, 391, 392, 393, 395, 396, 397, and 399, revised as of October 1, 2012, and no later amendments or editions, as amended under this Article. The incorporated material is on file with the Department and is available from the U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000. The incorporated material can be ordered online by visiting the U.S. Government Online Bookstore at <http://bookstore.gpo.gov>.
- (b) The sections of 49 CFR incorporated under subsection (A) apply as amended under this Article to all intrastate and interstate motor carriers operating in Arizona and persons operating a commercial motor vehicle, except as provided under subsection (C).
- (c) The intrastate operator of a tow truck with a gross vehicle weight rating of 26,000 pounds or less is exempt from the requirements of 49 CFR 390 through 399, except that the driver is subject to the physical qualifications and examination requirements of 49 CFR 391, subpart E.

ARKANSAS**Arkansas Uniform Commercial Driver License Act: Title 27- Transportation****Ark. Code. Ann. §27-23-102: Statement of intent and purpose**

(a) The purpose of this subchapter is to implement the Commercial Motor Vehicle Safety Act of 1986, Title XII of Pub. L. 99-570, and reduce or prevent commercial motor vehicle accidents, fatalities, and injuries by:

- (1) Permitting commercial drivers to hold only one (1) license;
- (2) Disqualifying commercial drivers who have committed certain serious traffic violations, or other specified offenses; and
- (3) Strengthening licensing and testing standards for commercial drivers.

(b) This subchapter is a remedial law and shall be liberally construed to promote the public health, safety, and welfare. To the extent that this subchapter conflicts with general driver licensing provisions, this subchapter prevails. Where this subchapter is silent, the general driver licensing provisions apply.

Ark. Code Ann §27-23-128: Deferment of sentence -- Restrictions

No circuit or district court judge may utilize § 5-4-321, § 16-90-115, § 16-90-904, §§ 16-93-301 -- 16-93-303, § 16-93-314, or § 27-50-701 or any other program to defer imposition of sentence or enter the person into a diversion program in instances in which the person holds a commercial driver license or a commercial learner's permit and is charged with violating any state or local traffic law other than a parking violation.

CALIFORNIA**Cal Veh Code Chapter 7: Commercial Motor Vehicle Safety Program****Note**

People v. Meyer, 186 Cal. App. 4th 1279: The court in this decision held that a driver who held a commercial driver's license at the time of the violation of a traffic offense is barred from completing traffic school in lieu of adjudicating the traffic offense pursuant to Veh Code § 42005 subd. (c), in compliance with 49 CFR §384.226.

Cal Veh Code § 15200: Legislative intent

It is the intent of the Legislature, in enacting this chapter, to adopt those standards required of drivers by the Federal Motor Carrier Safety Administration of the United States Department of Transportation, as set forth in the federal Motor Carrier Safety Improvement Act of 1999 (Public Law 106-159) and to reduce or prevent commercial motor vehicle accidents, fatalities, and injuries by permitting drivers to hold only one license, disqualifying drivers for certain criminal offenses and serious traffic violations, and strengthening licensing and testing standards. This act is a remedial law and shall be liberally construed to promote the public health, safety and welfare. To the extent that this chapter conflicts with general driver licensing provisions, this chapter shall prevail. Where this chapter is silent, the general driver licensing provisions shall apply. It is the further intent of the Legislature that this program be fee supported, and that the department fully recoup its costs within four years of the program's enactment.

COLORADO**Colo. Rev. Stat. §42-2-401: Commercial Driver's License Act****Colo. Rev. Stat §42-4-1719: Violations – commercial driver's license – compliance with federal regulations**

As to a holder of a commercial driver's license as defined in section 42-2-402 or the operator of a commercial motor vehicle as defined in section 42-2-402, a court shall not defer imposition of judgment or allow a person to enter into a diversion program that would prevent a driver's conviction for any violation, in any type of motor vehicle, of a traffic control law from appearing on the driver's record.

CONNECTICUT**Conn. Gen. Stat. §54-56g (h): Pretrial alcohol education program**

(h) The provisions of this section shall not be applicable in the case of any person charged with a violation of section 14-227a or 14-227m or subdivision (1) or (2) of subsection (a) of section 14-227n (1) while operating a commercial motor vehicle, as defined in section 14-1, or (2) who holds a commercial driver's license or commercial driver's instruction permit at the time of the violation

DELAWARE**Del. Code Ann. Tit. 21 § 2602: Statement of intent and purpose**

(a) The purpose of this chapter is to implement the federal Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (Title XII of Pub. Law 99-570) [49 U.S.C. § 521, Appendix §§ 2304, 2701-2716; repealed] and reduce or prevent commercial motor vehicle accidents, fatalities and injuries by:

- (1)** Permitting commercial drivers to hold only 1 license;
- (2)** Disqualifying commercial drivers who have committed certain serious traffic violations, or other specified offenses;
- (3)** Strengthening commercial driver licensing and testing standards.

(b) This chapter is a remedial law and shall be liberally construed to promote the public health, safety and welfare. To the extent that this chapter conflicts with general driver licensing provisions, this chapter prevails. Where this chapter is silent, the general driver licensing provisions apply.



COMMERCIAL DRIVER'S LICENSE VIOLATIONS: ENFORCEMENT, PROSECUTION, & REPORTING

This course is designed to assist prosecutors, law enforcement personnel, judges, court clerks, motor vehicle administrators, and other allied professionals with vested interests in Commercial Driver's License (CDL) enforcement and public safety, overcome the challenges involved throughout all stages of Commercial Motor Vehicle safety enforcement.



2019 CDL
CONFERENCE

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PHOTO FROM POLICE CHIEF MAGAZINE ONLINE

FOR MORE INFORMATION,
PLEASE CONTACT:

Jeanine Howard, Staff Attorney,
NTLC
jhoward@ndaajustice.org

Romana Lavalas, Senior Attorney,
NTLC
rlavalas@ndaajustice.org

Joanne Thomka, NTLC Director
jthomka@ndaajustice.org



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FOR MORE
INFORMATION, PLEASE
CONTACT:

Joanne Thomka, NTLC Director
jthomka@ndaajustice.org

Romana Lavalas, Senior Attorney,
NTLC
rlavalas@ndaajustice.org

Jeanine Howard, Staff Attorney,
NTLC
jhoward@ndaajustice.org

Please note there is no cost to attend this training. Space is limited. Attendees must register. Participants who live more than 50 miles away from the training site are eligible for travel reimbursement pursuant to GSA guidelines. Travel days are June 4, 2019 and June 6, 2019.

Mastering Masking

Legal and Ethical Consequences of Plea Negotiations Involving Commercial Driver's Licenses



Photo courtesy of <https://www.emstlawgroup.com/blog/semi-tractor-trailer-vehicle-crash-highway-166/>

The National Traffic Law Center is pleased to offer this course designed to provide prosecutors and other traffic safety professionals with the materials and techniques necessary to train other prosecutors and traffic safety professionals in their respective jurisdictions on the fundamentals of *Masking.

Participants will be able to:

- Understand the Federal definition of "Masking," "Conviction" and "Disqualification" pursuant to the Federal Motor Carrier Safety Regulations
- Learn about the ethical consequences of Masking
- Explore various techniques and skills to educate other professionals on Masking

*49 CFR §384.226: "The State must not mask, defer imposition of judgment, or allow 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 (other than parking, vehicle weight, or vehicle defect violations) from appearing on the driver's record, whether the driver was convicted for an offense committed in the State where the driver is licensed in another State."