

CDL QUICK REFERENCE GUIDE

CDL Basics [49 CFR §383 & §384]

Generally, commercial motor vehicle (CMV) operators must possess a valid commercial driver license (CDL). Individual states are responsible for the issuance and control of CDLs for drivers domiciled in the jurisdiction. State CDL statutes are generally derived from the Federal Motor Safety Administration (FMCSA) promulgated regulations found in Title 49 of the Code of Federal Regulations (CFR). Federal mandates ensure similar CDL regulation among states. Each state will have some variances and individual state law must be consulted.

Relevant Federal Regulations

- ◆ Code of Federal Regulations: <https://www.ecfr.gov/current/title-49/subtitle-B/chapter-III>

CDL Informational Publications

- ◆ Commercial Drivers' Licenses: A Prosecutor's Guide to the Basics of Commercial Motor Vehicle Licensing and Violations: https://ndaa.org/wp-content/uploads/CDLMono_REV2017_FinalWeb.pdf
- ◆ When Is a CDL Required?: <https://www.fmcsa.dot.gov/registration/commercial-drivers-license/drivers>
- ◆ Commercial Driver's License: <https://www.fmcsa.dot.gov/registration/commercial-drivers-license>
- ◆ Commercial Driver Licensing Laws: <http://www.cdlresources.org/state-case-law/>

Masking [49 CFR §384.226]

A federal regulation adopted by most states encourages courts and licensing authorities to create the most accurate driver's history (for in state and out-of-state CDL holders) and to ensure that appropriate enforcement action is taken against those unsafe drivers. While differences exist from state to state, the basic 'anti-masking' language prevents states from deferring imposition of judgment, allowing diversion programs or otherwise taking action to prevent a conviction for violating a traffic control law from appearing on a CDL holder's driving record. The anti-masking provisions generally apply whether the CDL holder was operating a CMV or a non-CMV at the time of the offense.

Understanding Masking

- ◆ Unmasking CDL Convictions: <http://www.ndaa.org/pdf/BTL%20JulAug%202011%20Vol19%20No4.pdf>
- ◆ From Roadside to Record Videos: <https://ndaa.org/training/from-roadside-to-record-videos/>
- ◆ Commercial Driving Resource Center – Research: <https://www.ncsc.org/cdrc/research>
- ◆ Commercial Driving Resource Center – Webinars: <http://www.cdlresources.org/webinars/>
- ◆ Commercial Driving Resource Center – What is a CDL Case?: https://www.ncsc.org/_data/assets/pdf_file/0021/78015/CDL-Video-1-What-is-a-CDL-Case-Transcript.pdf.pdf
- ◆ Commercial Driver's License: <https://www.fmcsa.dot.gov/registration/commercial-drivers-license>
- ◆ Commercial Driver Case Law: <http://www.cdlresources.org/state-case-law/>

CDL/CMV Enforcement

Each state has specialized officers who conduct vehicle and operator inspections in accordance with FMCSA regulations. As with any vehicle, however, road officers *can* enforce basic rules of the road on CMVs. Thousands die each year in CMV involved collisions so enforcing road safety laws on CMVs should be a regular component of law enforcement in every state, county and local jurisdiction. Effective training aids and informational resources exist to assist road officers in this type of vehicle stop and enforcement. Officers should always indicate (where appropriate) if a citation or charge involves a CMV and/or CDL holder.

Effecting CMV Stops Videos

- ◆ From Roadside to Record Videos, Part One, – CMV: <https://ndaa.org/resource/part-one-the-roadside-cmv/>
- ◆ From Roadside to Record Videos, Part Two, – CDL & Personal Vehicle: <https://ndaa.org/resource/part-two-the-roadside-cdl-personal-vehicle/>
- ◆ 18 Wheels and Busted: <https://www.youtube.com/watch?v=KGvhD4Qlc8E>
- ◆ Pull 'Em Over: <https://vimeo.com/52227953>

FMCSA Training

- ◆ Truck and Bus Enforcement Training: <https://www.fmcsa.dot.gov/national-training-center/large-truck-and-bus-traffic-enforcement>
- ◆ Commercial Driver's License: <https://www.fmcsa.dot.gov/registration/commercial-drivers-license>

Medical Qualifications [49 CFR §391.41]

CMV operators are generally required to submit to a medical examination every two years to screen out physical or mental diagnoses that could interfere with safe CMV operation. As part of the examination, drivers complete a lengthy medical questionnaire which may be retained by the examiner or the state and may have evidentiary value in any case in which a medical defense is asserted. Drivers successfully completing the medical examination will be deemed as medically qualified and receive a medical card (states are currently transitioning from hard-copy cards for drivers to digitally maintained records). Medically unqualified drivers may be reported to the state licensing authority.

Commercial Driver's License Program-

- ◆ Medical Overview: <https://www.fmcsa.dot.gov/registration/commercial-drivers-license/medical#self-certification-fags>
- ◆ Commercial Driver's License Program – Drug and Alcohol Clearinghouse: <https://www.fmcsa.dot.gov/regulations/commercial-drivers-license-drug-and-alcohol-clearinghouse>
- ◆ State-by State Instructions for Submitting Medical Certificates: <https://www.fmcsa.dot.gov/registration/commercial-drivers-license/state-state-med-cert-submission-update>
- ◆ Medical Examination Report Form: <https://www.fmcsa.dot.gov/regulations/medical/medical-examination-report-form-commercial-driver-medical-certification>

Drugs, Alcohol & CMVs [49 CFR §392.4 & §392.5]

Generally, FMCSA promulgated regulations (adopted by individual states) prohibit CMV operators from possessing or using alcoholic beverages, Schedule I [21 CFR §1308.11] substances, amphetamine, narcotic drugs, or other impairing substances. Similarly, drivers may not be medically qualified if taking methadone or marijuana. Drivers may be placed out of service (by properly authorized enforcement officers) if found operating a CMV with any measurable blood/breath alcohol concentration. Federal regulations (adopted by individual states) mandate no less than a one-year CDL disqualification for CMV operators found to have driven a CMV with a BAC of .04% or greater. Some states have adopted the .04% standard as an alternate *per se* level when charging impaired operators of CMVs.

DOT/FMCSA Drug and Alcohol Testing

- ◆ CDL Drug and Alcohol Clearinghouse: <https://www.fmcsa.dot.gov/regulations/commercial-drivers-license-drug-and-alcohol-clearinghouse>
- ◆ Drug and Alcohol Testing Program: <https://www.fmcsa.dot.gov/regulations/drug-alcohol-testing-program>
- ◆ Employer Based Drug Testing: <https://www.fmcsa.dot.gov/regulations/drug-alcohol-testing/overview-drug-and-alcohol-rules-employers>

Impaired Driving and CDLs/CMVs

Each state defines impaired driving in accordance with its own statutes and case law. Impaired driving in a CMV can be particularly dangerous due to the size and nature of the vehicle as well as the type of load being carried. In order to ensure safe driving behavior at all times, strict CDL disqualification regulations have been promulgated by FMCSA and adopted by all states. An impaired driving and/or implied consent conviction by someone who holds a CDL (or who should have held a CDL based on the type of vehicle being driven) will result in no less than a one year CDL disqualification. This disqualification is mandatory whether the CDL holder was operating a CMV or a non-CMV at the time of the offense. CDL holders are generally ineligible for impaired driving diversion programs that result in no conviction of the original charge appearing on the driver's record. CDL holders who assert medical defenses to impaired driving may have their medical examination history (as related to their CDL medical certification) investigated by police or prosecution.

Impaired Driving Information

- ◆ Impaired Driving: http://www.ndaa.org/ntlc_impaired_driving.html

Hours of Service

To prevent fatigued driving, FMCSA promulgates rules curtailing the number of on duty hours a commercial driver can remain on duty. Break periods are mandated and regulated. Generally, these regulations are enforced by designated officials within each state. CMV operators found in violation of hours-of-service-regulations may be placed out of service. Hours of Service (HOS) regulations may be subject to revision and are published frequently.

Current HOS Regulations

- ◆ Summary of Hours-of-Service Regulations: <http://www.fmcsa.dot.gov/rules-regulations/topics/hos/index.htm>

Hazardous Materials

Special regulations govern the transportation of hazardous materials (Hazmat or HM) due to concerns over both roadway safety and homeland security. Additional state laws may apply. Officers should be aware of potential dangers posed by the presence of Hazmat during any traffic stop. Federally mandated placards indicating the presence of Hazmat should be noted. Courts should be aware that many traffic violations carry increased/ additional penalties and CDL disqualification periods if committed while the driver was transporting Hazmat.

Federal Hazmat Information

- ◆ *Hazardous Materials – HM:* <http://www.fmcsa.dot.gov/safety-security/hazmat/hm-theme.htm>
- ◆ *Hazmat Endorsement Threat Assessment Program:* <https://www.tsa.gov/for-industry/hazmat-endorsement>

Placards/Safety Marks on CMVs

- ◆ *Placarding/Safety Marks and Their Reason for Being:* <https://issuu.com/cvsaorg/docs/cvsa-guardian-3rd-qtr-2013> Found on page 9.

CMV Related Criminal Activity

In addition to violations of traffic laws, CMVs may be involved in various forms of criminal activity. Such activity may be related to serious crimes. Officers and prosecutors handling CMV involved crimes including human trafficking, production/distribution of drugs or other contraband or fraud should be alert for evidence of organized crime. Resources exist to assist local and state agencies with the investigation and prosecution of criminal enterprises. Prosecutors should also be aware that a CDL holder faces disqualification if they commit a felony while operating any vehicle. Using a CMV for purposes of human trafficking can lead to a lifetime disqualification with no eligibility for reinstatement.

Human Trafficking and CMV

- ◆ *National Traffic Law Center, On-Demand Learning: Human Trafficking and the Impact on CDLs:* <https://ndaa.org/training/human-trafficking-and-the-impact-on-commercial-drivers-licenses/>
- ◆ *Truckers Against Trafficking Training Video:* <https://vimeo.com/399290663>
- ◆ *Truckers Against Trafficking Website:* <http://truckersagainstrafficking.org/>
- ◆ *FBI Law Enforcement Bulletin – Human Sex Trafficking:* <https://leb.fbi.gov/topics-in-the-news/human-trafficking>
- ◆ *U.S. DOJ Human Trafficking:* <https://www.justice.gov/humantrafficking>

Violent Crime and CMVs

- ◆ *FBI – Highway Serial Killings:* https://archives.fbi.gov/archives/news/stories/2009/april/highwayserial_040609

Moving Fraud

- ◆ *FMCSA – Protect Your Move:* <https://www.protectyourmove.gov/>

Distracted Driving

State and Federal laws prohibit against distracted driving. State laws may vary on the types of distracted driving disallowed. One common form of distracted driving is texting or the use of handheld mobile devices during vehicle operation. CMV operators may also have access to on board computers or other interactive devices that may pose distractions. Because distracted driving in a CMV can pose serious safety risks law enforcement officers and courts should be aware of controlling state laws. Federal regulations require 'one-touch', hands-free operation of cell phones and similar devices. Additional evidence may be obtained from in cab cameras that record the actions of the driver.

Distracted Driving CDL Enforcement for Prosecutor and Law Enforcement:

https://ndaa.org/wp-content/uploads/CDL_Distracted_Mono_Final_WEB_Revised.pdf
Hand-Held Device Ban

- ◆ *No Texting Rule Fact Sheet:* <https://www.fmcsa.dot.gov/driver-safety/distracted-driving/no-texting-rule-fact-sheet>
- ◆ *Mobile Phone Restrictions Fact Sheet:* <https://www.fmcsa.dot.gov/driver-safety/distracted-driving/mobile-phone-restrictions-fact-sheet>

Information on CMVs and Distracted Driving

- ◆ *Defeating Distracted Driving:* <https://www.cvsa.org/wp-content/uploads/Defeat-Distracted-Driving-Brochure.pdf>
- ◆ *CMV Driving Tips – Driver Distraction:* <https://www.fmcsa.dot.gov/safety/driver-safety/cmvd-driving-tips-driver-distraction>
- ◆ *Driver Distraction in Commercial Motor Vehicles:* <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/FMCSA-RRR-09-042.pdf>

CMV Crashes

A crash involving a CMV and/or driver who holds a CDL may involve additional evidentiary or statutory issues. Criminal negligence or recklessness standards may be different for a professional driver subject to special regulations. State commercial driver license testing manuals (similar to those provided for all driver's license candidates) are a valuable tool for understanding the specialized training received by CDL holders and the additional responsibilities held by CMV drivers. Relevant records including vehicle maintenance, other crash information and drug test results may be kept by a CDL holder's employer and should be obtained by law enforcement as part of the investigation via search warrant if necessary.

Federally Mandated Post-Crash Drug Testing

- ◆ *FMCSA – Drug Testing Guide:* <https://www.fmcsa.dot.gov/regulations/drug-alcohol-testing-program>
- ◆ *Commercial Driver's License Drug and Alcohol Clearinghouse:* <https://www.fmcsa.dot.gov/regulations/commercial-drivers-license-drug-and-alcohol-clearinghouse>
- ◆ *Large Truck Crash Reconstruction for Prosecutors:* https://ndaa.org/wp-content/uploads/Crash_Monograph_FinalWEB_revised3.pdf

Equipment Violations/Vehicle Inspections

Specially authorized enforcement officers are responsible for conducting vehicle, driver and motor carrier inspections in accordance with specific criteria. While inspection criteria are uniform, the agency designated to perform the inspections may vary from state to state. Typically, such inspectors are employed by a state law enforcement agency. Such inspections notwithstanding, road officers may choose to take enforcement action consistent with state and local regulations if any vehicle is being operated in a condition that renders it unfit for safe travel. For situations involving a CMV, the officer may choose to contact a designated CMV inspector for assistance. State FMCSA field offices may also provide assistance with unsafe drivers or carriers.

CMV Inspection Information

- ◆ *North American Standard Inspections Program:* <https://www.cvsa.org/inspections/>
- ◆ *CVSA Programs – Roadcheck:* <https://www.cvsa.org/programs/international-roadcheck/>

Additional Assistance

- ◆ *FMCSA – Field Office Phone List:* <https://www.fmcsa.dot.gov/mission/field-offices>

International CMV Drivers

Drivers with valid CDLs from all fifty states and the District of Columbia may operate appropriate vehicles in interstate commerce. Additionally, drivers with valid CDLs or equivalent licenses from Canada and Mexico may operate CMVs with the United States in accordance with international agreements. There is no international driver's license that permits CMV operation by individuals not legally entitled to do so by a state (or the District of Columbia), the federal government of Mexico or a province or territory of Canada.

Information on International Reciprocity Programs

- ◆ *FMCSA – International Programs:* <https://www.fmcsa.dot.gov/international-programs>

Additional Resources

American Association of Motor Vehicle Administrators: <http://www.aamva.org/>
American Bar Association: <http://www.americanbar.org/aba.html>
American Trucking Associations: <https://www.trucking.org/>
Commercial Vehicle Safety Alliance: <https://www.cvsa.org/>
Federal Motor Carrier Safety Administration: <http://www.fmcsa.dot.gov/>
Governors Highway Safety Association: <http://www.ghsa.org/>

International Association of Chiefs of Police: <http://www.theiacp.org/>
National Center for State Courts: <http://www.ncsc.org/>
National Judicial College: <http://www.judges.org/>
National Highway Traffic Safety Administration: <http://www.nhtsa.gov/>
National Sheriff's Association: <http://www.sheriffs.org/>
National Traffic Law Center: http://www.ndaa.org/ntlc_home.html

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