

UPCOMING TRAININGS & CONFERENCES

A full list of NDAAs virtual learning sessions is available at ndaa.org/training-courses/.

NDAAs Mastering Masking Digital Course/ On Demand Training (CLE Available)
ndaa.org/training/mastering-masking-2/

NDAAs Human Trafficking and the Impact on Commercial Driver's Licenses/On Demand Training
ndaa.org/training/human-trafficking-and-the-impact-on-commercial-drivers-licenses/

NDAAs Prosecuting DUI Cases Online Course/ On Demand Training (CLE Available)
ndaa.org/training/prosecuting-dui-cases/

NDAAs Investigation and Prosecution of Drug-Impaired Driving Cases Online Course/On Demand Training (CLE Available)
ndaa.org/training/on-demand-learning-investigation-and-prosecution-of-drug-impaired-driving-cases/

How to Manage the Rapid Acceleration of Digital Evidence (Live Webinar—Free for Members and Non-Members) Sponsored by VidaNyx
 March 21, 2024 @ 2:00-3:00 p.m. ET

RESOURCES

Impaired Driving Resources
ndaa.org/programs/ntlc/

CDL-Related Resources
ndaa.org/programs/ntlc/commercial-drivers-license/

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Time for Change

By NTLC Staff¹

On Friday, June 21, 2019, a drug-impaired² man driving a commercial motor vehicle (CMV)³ struck a pack of motorcyclists. This crash killed seven people on a rural road in Randolph, New Hampshire. This incident, later known as “The Fallen 7” crash, claimed the lives of seven members of the Jarhead Motorcycle Club—mainly Marine Corp veterans on a group ride. To date, it stands as the largest single incident loss of life on New Hampshire’s roads.

The ensuing investigation was extensive and involved the National Transportation Safety Board (NTSB). Sgt. Turner, a member of the New Hampshire State Police Motor Carrier Enforcement Unit, also participated in the investigation with the singular focus of the motor carrier aspect of this deadly crash.

¹ The NTLC acknowledges and thanks New Hampshire State Police Sergeant Seth B. Turner for his significant contributions to the development of this article.

² The NTSB’s determination of probable cause for this crash included the truck driver’s “crossing the centerline and encroaching into the oncoming lane of travel, which occurred because of his impairment from use of multiple drugs.” National Transportation Safety Board. 2020. *Collision Between Pickup Truck with Trailer and Group of Motorcycles Randolph, New Hampshire June 21, 2019*. Highway Accident Report NTSB/HAR-20/04. Washington, DC, pages 13–17.

³ See Federal Motor Carrier Safety Regulations, 49 CFR § 390.5, Definitions.

The investigation revealed that at the time of the crash, all driving privileges of the CMV driver should have been revoked in Massachusetts due to his refusal to submit to a chemical test in an impaired driving arrest in Connecticut two months prior. Massachusetts treats offenses committed out-of-state relating to operating under the influence of alcohol or other drugs, including chemical test refusals, as though the offenses occurred in Massachusetts.⁴

Despite the federal mandate for “one driver, one license, and one record,” the investigation of this crash revealed some serious flaws existing in the effort for states to share commercial drivers’ license information. This article outlines the issues discovered and the innovative solution created to help overcome those issues in an effort to prevent another senseless tragedy. Through the collective effort of various traffic safety stakeholders, Sgt. Turner brought a level of uniformity to this inherently intricate matter in New Hampshire through ingenuity and the use of technology to make the roads safer every day. It serves to illustrate that even from such a tragic event, positive change can emerge.

The Fall Out

The NTSB investigation revealed that the CMV driver possessed a Massachusetts’s driver’s license. The license, however, was suspended due to the driver’s refusal to submit to a chemical test in a Connecticut Driving Under the Influence (DUI) incident earlier in the year. The Connecticut state driver licensing agency (SDLA) reported the suspension to an electronic system designed to alert other states of out-of-state convictions and suspensions. This report by Connecticut should have resulted in the revocation of the driver’s Massachusetts license. The status of his Massachusetts license, however, did not accurately reflect the revocation due to a backlog of unprocessed suspensions.⁵

Following the investigation, which included substantial contributions from the NH State Police, the NTSB issued a series of recommendations to State Driver’s License Agencies (SDLAs) nationwide. Among these recommendations were the following:

“Direct your state licensing agencies to review existing procedures or develop new ones to accurately and expeditiously,

- (1) process notifications received from other states about infractions and suspensions committed by the home state’s drivers in those jurisdictions, and
- (2) notify other jurisdictions of infractions and suspensions committed in the home state by drivers licensed in those jurisdictions.”⁶

In pursuit of implementing the NTSB’s recommendations, Sgt. Turner collaborated with a neighboring state’s law enforcement counterparts and found issues existed in the reporting process, far before a conviction even reached the SDLA. In the review of the other state’s CDL Program, they discovered that due to the issues at the beginning of the reporting process, citations and charges involving a CMV or CDL holder were not being appropriately identified as such. As a result, that state’s SDLA did not receive accurate data from the judicial bureau, thereby preventing the SDLA from properly disqualifying a driver in accordance with Federal regulation 49 CFR § 383.51, which mandates disqualification for certain offenses involving CMVs and/or CDL holders.

The investigation revealed that at the time of the crash, all driving privileges of the CMV driver should have been revoked in Massachusetts due to his refusal to submit to a chemical test in an impaired driving arrest in Connecticut two months prior.

⁴ See CT ST § 14-227b (1963, as amended 2022) Implied consent to test operator’s blood, breath or urine and to nontestimonial portion of drug influence evaluation. Testing procedures. License suspension. Hearing; *see also* MA ST 90 § 22c (1933, as amended 2018) Suspension or revocation of certificate of registration or license; notice.

⁵ National Transportation Safety Board. 2020. *Collision Between Pickup Truck with Trailer and Group of Motorcycles Randolph, New Hampshire June 21, 2019*. Highway Accident Report NTSB/HAR-20/04. Washington, DC.

⁶ *Id.*

Proper identification of a CMV or a CDL holder involvement starts at the roadside by law enforcement officers. The initial identification and notation of these indicators are critically important to hold CMV drivers accountable as well as to prevent the masking of violations for CDL holders. Failure to properly document these indicators could result in missing an appropriate disqualification, or even an unwarranted imposition of one. Additionally, failure to document the correct status of a CDL or CMV at the time of initial enforcement action against the driver prevents prosecutors, the court, and ultimately the SDLA, from properly identifying and imposing sanctions against the driver as required by 49 CFR § 383.51.

A Start in the Right Direction

Upon first glance, the reporting issue seemed to stem from law enforcement officers, prosecutors, judicial staff, and/or SDLA personnel neither understanding the indicators nor the importance of them. Sgt. Turner essentially viewed the crux of the reporting problem as a training issue, the solution of which was providing specific training. Ultimately, Sgt. Turner discovered there were two main areas in the process presenting problems: the first was overall knowledge and education on CDL- and CMV-related charges and issues and the second was the process by which information was recorded. While the two issues are closely linked, each problem required a distinct, yet complementary, solution.

In early 2020, and based on the recommendations of the NTSB, Sgt. Turner started working on a project called Accuracy is Critical, to address what he initially perceived as a training issue. The project began as a simple PowerPoint presentation designed to help train New Hampshire law enforcement (mainly troopers) how to properly execute CDL-related citations.

In early 2023, Sgt. Turner realized the issue reached far beyond just training. While the Accuracy is Critical project was stalled for other reasons, Sgt. Turner began participation in a new Federal Motor Carrier Safety Administration (FMCSA) grant-funded project called the National Commercial Driver License Program Assessment. The goal of the assessment was to identify opportunities to strengthen the National CDL Program and enhance the ability of SDLAs to maintain compliance with Federal Motor Carrier Safety Regulations (FMCSRs) 49 CFR § 383 and 384 that govern CDLs and CDL programs. More specifically, the assessment involved an in-depth look at the life-cycle of a CDL-related citation to better educate and train law enforcement officers as well as to identify potential points of failure in the reporting process.

The life-cycle of a citation issued to a CDL holder begins when a law enforcement officer executes a traffic stop, verifies the CDL status of the driver, and issues the traffic citation or court complaint, allowing the citation or complaint to continue through the adjudicatory process. The cycle is complete when the SDLA receives a conviction notice, updates the CDL holder's driving record, imposes the appropriate 49 CFR § 383.51 (Disqualification of drivers) table sanction, as applicable, and reports the conviction to the Commercial Driver's License Information System (CDLIS)⁷ as required.

Proper identification of a CMV or a CDL holder involvement starts at the roadside by law enforcement officers.

⁷ "The Commercial Driver's License Information System (CDLIS) is a nationwide computer system that enables state driver licensing agencies (SDLAs) to ensure that each commercial driver has only one driver license and one complete driver record.

SDLAs use CDLIS to complete commercial driver license (CDL) procedures such as:

- Transmitting out-of-state convictions and withdrawals
- Transferring the driver record when a commercial driver license holder moves to another state
- Responding to requests for driver status and history

CDLIS was established under the Commercial Motor Vehicle Safety Act (CMVSA) of 1986 and is based on Federal Motor Carrier Safety Regulations in 49 CFR 383 and 384." American Association of Motor Vehicle Administrators website at www.aamva.org/technology/systems/driver-licensing-systems/cdlis, accessed March 6, 2024.

Time for Change

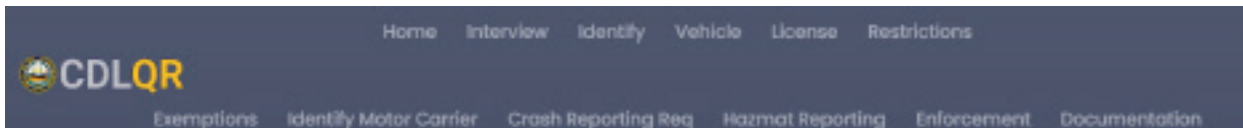
Sgt. Turner immediately recognized a key part of the problem arose even prior to the start of the life-cycle. Specifically, with CDLs and CMVs, law enforcement needed to be educated on the intricacies of CDLs and CMVs before they were faced with actually making a roadside stop. Secondary to the importance of the timing of the training, the information an officer needed during the traffic stop also needed to be easily accessible and dynamic enough to sustain iterative changes.

Historically, law enforcement officers used visor cards or quick reference cab cards as a printed one-page reference sheet to keep in their vehicles. Printed material quickly becomes outdated, however, and is logistically difficult to manage and update. The fact that all law enforcement officers generally have access to the internet while roadside made the use of a technology-based platform the most practical solution. From the necessity of having a convenient-to-use tool that was easy to update, the idea for a web-based application was born.

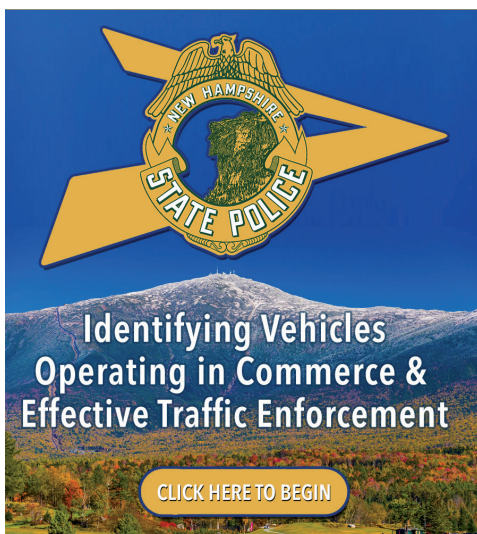
Understanding and believing this web-based application tool would be the solution to the accuracy issues in reporting CMV and CDL related incidents, Sgt. Turner collaborated with a web-designer to build a beta-version of the web-based application, which they named CDL-QR (NH Version). The team's vision was to develop the foundation for the application in New Hampshire in such a way that the application could later be reproduced and customized for other states. The team quickly realized this vision through incorporating partners throughout the process. The project team showcased the project to representatives from Vermont who became involved in the project in the early stages and have since designed a version of CDL-QR specific to Vermont.

The application, in its current form, serves a couple of functions through a series of questions and photos depicted below. The first step of the tool assists a user to determine if the vehicle being driven is being used in commerce. The second step assists a user to determine if the vehicle being operated is indeed a CMV based on the federal definition. If the vehicle meets the federal definition of a CMV, the tool then assists a user to determine whether it is a CDL-required CMV, a non CDL-required CMV, or a vehicle not qualifying as a commercial motor vehicle at all.

Overview of Categories of Information/Questions:



Use in Commerce Questions:



Basic Interview Questions

RESET FORM

Are you operating this vehicle on behalf of a business today?

- NO
- YES

Are you required to possess a CDL to operate this vehicle(s)?

- NO
- YES
- UNSURE

Federal Definition of CMV Questions and Tips:

Does the vehicle have a gross vehicle weight rating GVWR or gross combination weight rating GCWR, or gross vehicle weight or gross combination weight of 10,001 pounds (4,536 kg) or more, whichever is greater?

NO
 YES

[Click here for VIN Decoder](#)

(click next to continue)

VEHICLE AND TRAILER MUST NOT EXCEED ANY OF THESE VALUES.

GVWR:	3402 KG / 7500 LBS
GCWR:	6577 KG / 14500 LBS
RGAWR:	1950 KG / 4300 LBS
CURB WEIGHT:	2663 KG / 5872 LBS
MAX PAYLOAD:	739 KG / 1628 LBS

SAE J2807 TRAILER WEIGHT RATING (TWR) FOR VEHICLE CONFIGURATION.

CONVENTIONAL TWR:	3720 KG / 8200 LBS
MAX TONGUE WEIGHT:	372 KG / 820 LBS

SEE OWNER'S MANUAL FOR MORE INFORMATION

WARNING: Use the weight in pounds from this mylar sticker. **DO NOT** use the registered weight from the registration certificate. If the sticker is missing from inside the door, use [VIN Assist](#) link to check for the vehicle's minimum GVWR".

CDL Requirement Questions:

NO CDL Required

This vehicle is NOT required to have a CDL.
Take normal enforcement action.

[Contact Form](#) [Close](#)

Does the vehicle have a GVWR of 26,001 lbs. or more?

NO

(if yes, click next to continue)

Conduct Federal and State Enforcement actions as necessary paying close attention to 49 CFR, Part 383.51

[RSA INFORMATION](#)

[CLICK HERE FOR Section-383.51](#)

Training Is Only Part of the Problem

While the CDL-QR (NH Version) application served a key function in solving the overall education problem, education was not the only issue plaguing the reporting of CDL and CMV cases in New Hampshire. A month or so after starting the National Commercial Driver License Program Assessment, Sgt. Turner identified an inconsistency between New Hampshire's two charging instruments. While the discrepancy between the two forms was not the root of the problem, the discrepancy underscored the flaws in the CMV and CDL indicator fields which lead to inaccurate reporting. The lack of clarity in the indicator fields proved to have a detrimental impact on the CDL and CMV reporting process.

In New Hampshire, the Uniform Traffic Citation (Form DSMV 428, reproduced in part below) is used to identify traffic violations against non-CDL and CDL holders approximately 90% of the time (*i.e.*, at traffic stops and/or roadside inspections), while the New Hampshire long form complaint (NH-JB- 2962-D, reproduced in part below) is used when the DSMV 428 is not applicable (*i.e.*, custodial arrest). Both forms include a box to indicate a "Commercial Vehicle," but neither form provides a clear explanation of when the indicator is applicable. The long form complaint contained an additional box for a "Commercial Driver's License" but again, no explanation as to when this indicator should be used.⁸

⁸ Federal Motor Carrier Safety Administration website, Registration>Commercial Driver's License>Drivers, available at www.fmcsa.dot.gov/registration/commercial-drivers-license/drivers, accessed on March 6, 2024.

DSMV 428 form (reproduced in part showing only the indicators):

COMMERCIAL VEHICLE HAZMAT 16+ PASSENGER

AT/LOCATION: _____ GPS: _____

Upon a certain public highway, to wit -

RGE ID: _____

NH-JB-2962-D form (reproduced in part showing only the indicators):

COMM.VEH. COMM.DR.LIC. HAZ.MAT. 16+PASSENGER

AT:

On at in County NH, did commit the offense of:

Upon identification of the discrepancy in the two forms, Sgt. Turner informally polled both new and more experienced officers, asking when the Commercial Vehicle box should be checked. Most officers were unable to articulate when the box should be checked and there was even confusion among the Certified Motor Carrier Inspectors. Answers varied across the board with some believing the box was for a driver operating a CDL-required vehicle,⁹ while others believed it was for a driver operating a commercial vehicle as defined by 49 CFR § 390.5.¹⁰ Some officers even admitted they never checked the box. It was obvious the lack of clarity led to improper reporting and, in some cases, no reporting at all.

A change to the forms was clearly needed, primarily to ensure New Hampshire reported properly and in compliance with the federal regulations governing CDLs and CMVs. The added benefit, however, is the changes allow law enforcement officers to communicate more effectively, both to the defendant and to those who handle the complaints/citations, that the charges may have further implications relating to a CMV and possible sanctions to a CDL. Sgt. Turner proposed the following changes (DSMV 428 change proposal, reproduced in part below) that would better align with federal regulations surrounding CMV and CDL reporting. The changes clearly identify if the driver possessed a CDL and if the vehicle being driven was a CMV requiring a CDL.¹¹

Proposed Update DSMV 428 (reproduced in part):

YES NO N/A | YES NO | YES NO | YES NO

CDL HOLDER | CDL REQ VEHICLE | PLACARDABLE HAZMAT | 16+ PASSENGER

AT/LOCATION: _____ GPS: _____

Upon a certain public highway, to wit -

CHARGE

These proposed changes, coupled with the use of e-citation/e-complaint, require the CDL/CMV-related questions to be accurately answered by the issuing officer in order for them to issue the complaint or citation. The technology, in the form of an e-citation/e-complaint, is vital to ensure officers properly report as it requires their affirmative action to answer the CDL/CMV question(s) before they can proceed to the next step with the citation. Aside from the format of the questions, the only barrier to an officer accurately checking the correct box is the lack of requisite knowledge of what defines a CDL required vehicle. When an officer encounters this problem, they can use the CDL-QR (NH version) application to determine the type of vehicle.

Some resisted these proposed changes, as it seemingly put an extra burden on all officers when many perceived this as purely a Motor Carrier Enforcement function. To the contrary, this is a law enforcement-wide issue requiring a global resolution and should not be limited to just a select, specially-trained few within each jurisdiction.

⁹ *Id.*

¹⁰ See Federal Motor Carrier Safety Regulations, 49 CFR § 390.5, Definitions.

¹¹ Federal Motor Carrier Safety Administration website at www.fmcsa.dot.gov/registration/commercial-drivers-license/drivers, accessed on March 6, 2024.

Be the Change

From a horrific tragedy and its ensuing investigation, the ingenuity and dedication of the New Hampshire State Police identified systemic issues likely to be similarly impacting other agencies across the country. The key is for every state to heavily scrutinize and review its own citation and complaint forms to ensure they provide accurate information, to properly educate all traffic safety holders, to review current business practices as it relates to CDLIS reporting, and to review the workflow with real world cases by tracking them from beginning to end. As New Hampshire found, something so simple as a check box on a citation or complaint greatly impacted the potential for subsequent sanctions to be brought against a CDL holder upon conviction. Elevating education for all traffic safety stakeholders and improving the reporting procedures greatly increase the ability to take high risk drivers off the road, keeping our nation's roadways safe.

The hope is that these New Hampshire projects can influence change when it comes to enforcement against CDL holders and CMV drivers. Enforcement saves lives and it is incumbent on every traffic safety stakeholder to be educated and enforce the laws governing CMVs and CDLs. Each and every step forward brings something positive and good to the senseless loss of seven people who were just out for a ride with friends in the beautiful White Mountains of New Hampshire. Let their loss not be in vain.

Dedicated to those lost on June 21st 2019 in Randolph, N.H.

Michael Ferazzi, 62, of Contoocook, N.H.

Albert Mazza Jr., 59, of Lee, N.H.

Daniel Pereira, 58, of Riverside, R.I.

Jo-Ann and Edward Corr, both 58, of Lakeville, Mass.

Desma Oakes, 42, of Concord, N.H.

Aaron Perry, 45, of Farmington, N.H.

If you are interested in the CDL-QR application:

The pilot project utilized to design and construct the CDL-QR application for New Hampshire is completed, but there are many areas to expand upon as it relates to its further development.

An FMCSA grant application is currently pending. This grant will allow for the expansion of the CDL-QR application's abilities and will provide for the application development for other states who are interested. This web-based, state-specific application will aid officers/troopers with effective traffic enforcement against CDL holders and CMV drivers and increase data accuracy for enforcement and crash reporting.

New Hampshire worked with eScience & Technology Solutions, Inc. to develop the initial concept of the CDL QR application. Lead state enforcement agencies interested in additional information about the CDL QR application or in participating in this next grant, if awarded, are encouraged to contact Bill Haynes (bill.haynes@estsi.com) from eScience & Technology Solutions, Inc.

About the Contributor

Sgt. Seth Turner, a native of New Hampshire, is currently a Supervisor with New Hampshire State Police's Motor Carrier Enforcement Unit. He currently holds MCSAP Part A/B, HazMat, Cargo Tank, Passenger Vehicle, Level VI certifications and recently obtained his Advanced CMV Post-Crash inspection certification from CVSA. Sgt. Turner is a US Army veteran and recently completed his 20th year in law enforcement. He is the proud father of two young men, both currently serving in the U.S. Armed Forces.

