

§383.7 Validity of CDL issued by decertified State.

A CDL issued by a State prior to the date the State is notified by the Administrator, in accordance with the provisions of §384.405 of this subchapter, that the State is prohibited from issuing CDLs, will remain valid until its stated expiration date.

Subpart B - Single License Requirement**§383.21 Number of drivers' licenses.**

No person who operates a commercial motor vehicle shall at any time have more than one driver's license.

§383.21 DOT Interpretations

Question 1: Are there any circumstances under which the driver of a CMV as defined in §383.5 is allowed to hold more than one driver's license?

Guidance: Yes. A recipient of a new driver's license may hold more than one license during the 10 days beginning on the date the person is issued a driver's license.

Question 2: Is a person from Puerto Rico required to surrender his or her driver's license in order to obtain a nonresident CDL?

Guidance: Since Puerto Rico and the U.S. Territories are not included in the definition of a State in Section 12016 of the CMVSA (49 U.S.C. §31301(13)), they must be considered foreign countries for purposes of the CDL requirements. Under Part 383, a person domiciled in a foreign country is not required to surrender his or her foreign license in order to obtain a nonresident CDL. There are two reasons for permitting this dual licensing to a person domiciled in Puerto Rico: (a) There is no reciprocal agreement with Puerto Rico recognizing its CMV testing and licensing standards as equivalent to the standards in Part 383 and, (b) the nonresident CDL may not be recognized as a valid license to drive in Puerto Rico.

§383.23 Commercial driver's license.**(a) General rule.**

- (1) *Effective April 1, 1992*, no person shall operate a commercial motor vehicle unless such person has taken and passed written and driving tests which meet the Federal standards contained in Subparts F, G, and H of this part for

the commercial motor vehicle that person operates or expects to operate.

- (2) *Except as provided in paragraph (b) of this section*, no person may legally operate a CMV unless such person possesses a CDL which meets the standards contained in Subpart J of this part, issued by his/her State or jurisdiction of domicile.
- (b) Exception.**
- (1) *If a CMV operator* is not domiciled in a foreign jurisdiction which the Administrator has determined tests drivers and issues CDLs in accordance with, or under standards similar to, the standards contained in Subparts F, G, and H of this part, the person may obtain a Nonresident CDL from a State which does comply with the testing and licensing standards contained in such Subparts F, G, and H of this part.¹
 - (2) *If an individual is domiciled in a State* while that State is prohibited from issuing CDLs in accordance with §384.405 of this subchapter, that individual is eligible to obtain a Nonresident CDL from any State that elects to issue a Nonresident CDL and which complies with the testing and licensing standards contained in Subparts F, G, and H of this part.
- (c) Learner's permit.** State learners' permits, issued for limited time periods according to State requirements, shall be considered valid commercial drivers' licenses for purposes of behind-the-wheel training on public roads or highways, if the following minimum conditions are met:

1. Effective December 29, 1988, the Administrator determined that commercial drivers' licenses issued by Canadian Provinces and Territories in conformity with the Canadian National Safety Code are in accordance with the standards of this part. Effective November 21, 1991, the Administrator determined that the new Licencias Federales de Conductor issued by the United Mexican States are in accordance with the standards of this part. Therefore, under the single license provision of §383.21, a driver holding a commercial driver's license issued under the Canadian National Safety Code or a new Licencia Federal de Conductor issued by Mexico is prohibited from obtaining nonresident CDL, or any other type of driver's license, from a State or other jurisdiction in the United States.

- (1) *The learner's permit holder* is at all times accompanied by the holder of a valid CDL;
- (2) *He/she either holds a valid automobile driver's license*, or has passed such vision, sign/symbol, and knowledge tests as the State issuing the learner's permit ordinarily administers to applicants for automotive drivers' licenses; and
- (3) *He/she does not operate* a commercial motor vehicle transporting hazardous materials as defined in §383.5.

§383.23 DOT Interpretations

Question 1: May a holder of a CMV learner's permit continue to hold his/her basic driver's license from any State without violating the single-license rule?

Guidance: Yes, since the learner's permit is not a license.

Question 2: The requirements for States regarding CMV learner's permits in §383.23 appear to be ambiguous. For example, if the CMV learner's permit is "considered a valid CDL" for instructional purposes, is the State to enter the learner's permit issuance as a CDLIS transaction?

Guidance: No such requirement currently exists.

Question 3: Is a CDL required for CMV operations that occur exclusively in places where the general public is never allowed to operate, such as airport taxiways or other areas restricted from the public?

Guidance: No. FHWA regulations would not require a CMV driver to obtain a CDL under those circumstances. The Federal rules are minimum standards, however, and State law may require a CDL for operations not covered by Part 383.

Question 4: The holder of a commercial learner's permit (CLP) must be "accompanied by the holder of a valid commercial driver's license (CDL)." What is meant by "accompanied"?

Guidance: The holder of a valid CDL must be physically present in the front seat of the vehicle next to the CLP holder and have the CLP holder under observation and direct supervision. The CDL holder must have the proper CDL class and endorsement(s) necessary to operate the CMV.

Question 5: May a foreign driver with a temporary work visa obtain a commercial driver's license (CDL) to operate a commercial motor vehicle in the United States?

Guidance: A foreign driver holding a temporary work visa may obtain a nonresident CDL if he or she is domiciled in a foreign

jurisdiction that does not test drivers and issue commercial licenses under standards equivalent to those in Subparts F, G, and H of Part 383 (see §383.23(b)). However, drivers from Canada and Mexico with temporary work visas are not eligible for nonresident CDLs because FMCSA has determined that commercial licenses issued by Canadian provinces and territories, and the United Mexican States, are in accordance with the standards established by our rules. Therefore, all Mexican and Canadian drivers must have an appropriate license from their home country. Finally, a foreign driver who is in this country on a temporary work visa may not obtain a resident CDL since he or she is not "domiciled" in a U.S. State, as defined in §383.5 ("state of domicile").

Subpart C - Notification Requirements and Employer Responsibilities

§383.31 Notification of convictions for driver violations.

- (a) **Each person who operates a commercial motor vehicle**, who has a commercial driver's license issued by a State or jurisdiction, and who is convicted of violating, in any type of motor vehicle, a State or local law relating to motor vehicle traffic control (other than a parking violation) in a State or jurisdiction other than the one which issued his/her license, shall notify an official designated by the State or jurisdiction which issued such license, of such conviction. The notification must be made within 30 days after the date that the person has been convicted.
- (b) **Each person who operates a commercial motor vehicle**, who has a commercial driver's license issued by a State or jurisdiction, and who is convicted of violating, in any type of motor vehicle, a State or local law relating to motor vehicle traffic control (other than a parking violation), shall notify his/her current employer of such conviction. The notification must be made within 30 days after the date that the person has been convicted. If the driver is not currently employed, he/she must notify the State or jurisdiction which issued the license according to §383.31(a).
- (c) **Notification.** The notification to the State official and employer must be made in writing and contain the following information:
 - (1) *Driver's full name;*

- (2) *Driver's license number;*
- (3) *Date of conviction;*
- (4) *The specific criminal or other offense(s), serious traffic violation(s), and other violation(s) of State or local law relating to motor vehicle traffic control, for which the person was convicted and any suspension, revocation, or cancellation of certain driving privileges which resulted from such conviction(s);*
- (5) *Indication whether the violation was in a commercial motor vehicle;*
- (6) *Location of offense; and*
- (7) *Driver's signature.*

§383.31 DOT Interpretations

Question 1: Must an operator of a CMV (as defined in §383.5), who holds a CDL, notify his/her current employer of a conviction for violating a State or local (non-parking) traffic law in any type of vehicle, as required by §383.31(b), even though the conviction is under appeal?

Guidance: Yes. The taking of an appeal does not vacate or annul the conviction, nor does it stay the notification requirements of §383.31. The driver must notify his/her employer within 30 days of the date of conviction.

§383.33 Notification of driver's license suspensions.

Each employee who has a driver's license suspended, revoked, or canceled by a State or jurisdiction, who loses the right to operate a commercial motor vehicle in a State or jurisdiction for any period, or who is disqualified from operating a commercial motor vehicle for any period, shall notify his/her current employer of such suspension, revocation, cancellation, lost privilege, or disqualification. The notification must be made before the end of the business day following the day the employee received notice of the suspension, revocation, cancellation, lost privilege, or disqualification.

§383.33 DOT Interpretations

Question 1: When a driver (a) receives an Administrative Order of Suspension due to a blood alcohol reading in excess of the legal limit with notice that the suspension is not to be effective until 45 days after the notice or after an administrative hearing, and (b) a hearing is subsequently held, in effect suspending the license, what is the effective date of suspension for purposes of notifying the employer under §383.33?

Guidance: The effective date of the suspension for notification purposes is the day the employee received notice of the suspension.

§383.35 Notification of previous employment.

- (a) **Any person applying for employment** as an operator of a commercial motor vehicle shall provide at the time of application for employment, the information specified in paragraph (c) of this section.
- (b) **All employers shall request the information** specified in paragraph (c) of this section from all persons applying for employment as a commercial motor vehicle operator. The request shall be made at the time of application for employment.
- (c) **The following employment history information** for the 10 years preceding the date the application is submitted shall be presented to the prospective employer by the applicant:
 - (1) *A list of the names and addresses* of the applicant's previous employers for which the applicant was an operator of a commercial motor vehicle;
 - (2) *The dates the applicant was employed by these employers; and*
 - (3) *The reason for leaving such employment.*
- (d) **The applicant shall certify** that all information furnished is true and complete.
- (e) **An employer may require an applicant** to provide additional information.
- (f) **Before an application is submitted**, the employer shall inform the applicant that the information he/she provides in accordance with paragraph (c) of this section may be used, and the applicant's previous employers may be contacted for the purpose of investigating the applicant's work history.

§383.37 Employer responsibilities.

No employer may knowingly allow, require, permit, or authorize a driver to operate a CMV in the United States:

- (a) **During any period in which the driver** has a CMV driver's license suspended, revoked, or canceled by a State, has lost the right to operate a CMV in a State, or has been disqualified from operating a CMV;
- (b) **During any period in which the driver** has more than one CMV driver's license;

- (c) **During any period in which the driver**, or the CMV he or she is driving, or the motor carrier operation, is subject to an out-of-service order; or
- (d) **In violation of a Federal, State, or local law** or regulation pertaining to railroad-highway grade crossings.

§383.37 DOT Interpretations

Question 1: §383.37(a) does not allow employers to knowingly use a driver whose license has been suspended, revoked or canceled. Do motor carriers have latitude in their resulting actions: firing, suspension, layoff, authorized use of unused vacation time during suspension duration, transfer to nondriving position for duration of the suspension?

Guidance: Yes. The employer's minimum responsibility is to prohibit operation of a CMV by such an employee.

Question 2:

- a. A motor carrier recently found a driver who had a detectable presence of alcohol, placed him off-duty in accordance with §392.5, and ordered a blood test which disclosed a blood alcohol concentration of 0.05 percent. Is the carrier obligated to place the driver out of service for 24 hours as prescribed by §392.5(c)?
- b. Is the carrier obligated to disqualify the driver for a period of one year as prescribed by §§383.51(b) and 391.15(c)(3)(i) of the FMCSRs?

Guidance:

- a. Only a State or Federal official can place a driver out of service. Instead, the carrier is obligated to place the driver off-duty and prevent him/her from operating or being in control of a CMV until he/she is no longer in violation of §392.5.
- b. No. A motor carrier has no authority to disqualify a driver. Disqualification for such an offense only occurs upon a conviction.

Question 3: If an individual driver had two convictions for serious traffic violations while driving a CMV, and neither FHWA nor his/her State licensing agency took any disqualification action, does the motor carrier have any obligation under FHWA regulations to refrain from using this driver for 60 days? If so, when does that time period begin?

Guidance: No. Only the State or the FHWA has the authority to take a disqualification action against a driver. The motor carrier's responsibility under §383.37(a) to refrain from using the driver begins when

it learns of the disqualification action and continues until the disqualification period set by the State or the FHWA is completed.

Question 4: Is a driver who has a CDL, and has been convicted of a felony, disqualified from operating a CMV under the FMCSRs?

Guidance: Not necessarily. The FMCSRs do not prohibit a driver who has been convicted of a felony, such as drug dealing, from operating a CMV unless the offense involved the use of a CMV. If the offense involved a non-CMV, or was unrelated to motor vehicles, there is no FMCSR prohibition to employment of the person as a driver.

Subpart D - Driver Disqualifications and Penalties

§383.51 Disqualification of drivers.

(a) General.

- (1) *A driver or holder of a CDL* who is disqualified must not drive a CMV.
- (2) *An employer* must not knowingly allow, require, permit, or authorize a driver who is disqualified to drive a CMV.
- (3) *A driver is subject to disqualification sanctions* designated in paragraphs (b) and (c) of this section, if the holder of a CDL drives a CMV or non-CMV and is convicted of the violations.
- (4) *Determining first and subsequent violations.* For purposes of determining first and subsequent violations of the offenses specified in this subpart, each conviction for any offense listed in Tables 1 through 4 to this section resulting from a separate incident, whether committed in a CMV or non-CMV, must be counted.
- (5) *Reinstatement after lifetime disqualification.* A State may reinstate any driver disqualified for life for offenses described in paragraphs (b)(1) through (b)(8) of this section (Table 1 to §383.51) after 10 years if that person has voluntarily entered and successfully completed an appropriate rehabilitation program approved by the State. Any person who has been reinstated in accordance with this provision and who is subsequently convicted of a disqualifying offense described in paragraphs (b)(1) through (b)(8) of this section (Table 1 to §383.51) must not be reinstated.