

U.S. Code › Title 18 › Part I › Chapter 123 › § 2721

## 18 U.S. Code § 2721 - Prohibition on release and use of certain personal information from State motor vehicle records

**(a) IN GENERAL.**—A State department of motor vehicles, and any officer, employee, or contractor thereof, shall not knowingly disclose or otherwise make available to any person or entity:

(1) personal information, as defined in [18 U.S.C. 2725\(3\)](#), about any individual obtained by the department in connection with a motor vehicle record, except as provided in subsection (b) of this section; or

(2) highly restricted personal information, as defined in [18 U.S.C. 2725\(4\)](#), about any individual obtained by the department in connection with a motor vehicle record, without the express consent of the person to whom such information applies, except uses permitted in subsections (b)(1), (b)(4), (b)(6), and (b)(9): Provided, That subsection (a)(2) shall not in any way affect the use of organ donation information on an individual's driver's license or affect the administration of organ donation initiatives in the States.

**(b) PERMISSIBLE USES.**—Personal information referred to in subsection (a) shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of titles I and IV of the Anti Car Theft Act of 1992, the Automobile Information Disclosure Act ([15 U.S.C. 1231 et seq.](#)), the Clean Air Act ([42 U.S.C. 7401 et seq.](#)), and chapters 301, 305, and 321–331 of title 49, and, subject to subsection (a)(2), may be disclosed as follows:

(1) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions.

(2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers.

(3) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only—

(A) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

(B) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or

recovering on a debt or security interest against, the individual.

**(4)** For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.

**(5)** For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.

**(6)** For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting.

**(7)** For use in providing notice to the owners of towed or impounded vehicles.

**(8)** For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection.

**(9)** For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under chapter 313 of title 49.

**(10)** For use in connection with the operation of private toll transportation facilities.

**(11)** For any other use in response to requests for individual motor vehicle records if the State has obtained the express consent of the person to whom such personal information pertains.

**(12)** For bulk distribution for surveys, marketing or solicitations if the State has obtained the express consent of the person to whom such personal information pertains.

**(13)** For use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains.

**(14)** For any other use specifically authorized under the law of the State that holds the record, if such use is related to the operation of a motor vehicle or public safety.

**(c) RESALE OR REDISCLOSURE.—**

An authorized recipient of personal information (except a recipient under subsection (b)(11) or (12)) may resell or redisclose the information only for a use permitted under subsection (b) (but not for uses under subsection (b)(11) or (12)). An authorized recipient under subsection (b)(11) may resell or redisclose personal information for any purpose. An authorized recipient under subsection (b)(12) may resell or redisclose personal information pursuant to subsection (b)(12). Any authorized recipient (except a recipient under subsection (b)(11)) that resells or rediscloses personal information covered by this chapter must keep for a period of 5 years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and must make such records available to the motor vehicle department upon request.

**(d) WAIVER PROCEDURES.—**

A State motor vehicle department may establish and carry out procedures under which the department or its agents, upon receiving a request for personal information that does not fall within one of the exceptions in subsection (b), may mail a copy of the request to the individual about whom the information was requested,

informing such individual of the request, together with a statement to the effect that the information will not be released unless the individual waives such individual's right to privacy under this section.

**(e) PROHIBITION ON CONDITIONS.—**

No State may condition or burden in any way the issuance of an individual's motor vehicle record as defined in 18 U.S.C. 2725(1) to obtain express consent. Nothing in this paragraph shall be construed to prohibit a State from charging an administrative fee for issuance of a motor vehicle record.

(Added Pub. L. 103–322, title XXX, § 300002(a), Sept. 13, 1994, 108 Stat. 2099; amended Pub. L. 104–287, § 1, Oct. 11, 1996, 110 Stat. 3388; Pub. L. 104–294, title VI, § 604(b)(46), Oct. 11, 1996, 110 Stat. 3509; Pub. L. 106–69, title III, § 350(c), (d), Oct. 9, 1999, 113 Stat. 1025; Pub. L. 106–346, § 101(a) [title III, § 309(c)–(e)], Oct. 23, 2000, 114 Stat. 1356, 1356A–24.)

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U.S. Code › Title 18 › Part I › Chapter 123 › § 2722

## 18 U.S. Code § 2722 - Additional unlawful acts

**(a) PROCUREMENT FOR UNLAWFUL PURPOSE.—**

It shall be unlawful for any person knowingly to obtain or disclose personal information, from a motor vehicle record, for any use not permitted under section 2721(b) of this title.

**(b) FALSE REPRESENTATION.—**

It shall be unlawful for any person to make false representation to obtain any personal information from an individual's motor vehicle record.

(Added Pub. L. 103–322, title XXX, § 300002(a), Sept. 13, 1994, 108 Stat. 2101.)

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U.S. Code › Title 18 › Part I › Chapter 123 › § 2723

## 18 U.S. Code § 2723 - Penalties

**(a) CRIMINAL FINE.—**

A person who knowingly violates this chapter shall be fined under this title.

**(b) VIOLATIONS BY STATE DEPARTMENT OF MOTOR VEHICLES.—**

Any State department of motor vehicles that has a policy or practice of substantial noncompliance with this chapter shall be subject to a civil penalty imposed by the Attorney General of not more than \$5,000 a day for each day of substantial noncompliance.

(Added Pub. L. 103–322, title XXX, § 300002(a), Sept. 13, 1994, 108 Stat. 2101.)

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U.S. Code › Title 18 › Part I › Chapter 123 › § 2724

## 18 U.S. Code § 2724 - Civil action

**(a) CAUSE OF ACTION.—**

A person who knowingly obtains, discloses or uses personal information, from a motor vehicle record, for a purpose not permitted under this chapter shall be liable to the individual to whom the information pertains, who may bring a civil action in a United States district court.

**(b) REMEDIES.—**The court may award—

- (1) actual damages, but not less than liquidated damages in the amount of \$2,500;
- (2) punitive damages upon proof of willful or reckless disregard of the law;
- (3) reasonable attorneys' fees and other litigation costs reasonably incurred; and
- (4) such other preliminary and equitable relief as the court determines to be appropriate.

(Added Pub. L. 103–322, title XXX, § 300002(a), Sept. 13, 1994, 108 Stat. 2101.)

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U.S. Code › Title 18 › Part I › Chapter 123 › § 2725

## 18 U.S. Code § 2725 - Definitions

In this chapter—

- (1) “motor vehicle record” means any record that pertains to a motor vehicle operator’s permit, motor vehicle title, motor vehicle registration, or identification card issued by a department of motor vehicles;
- (2) “person” means an individual, organization or entity, but does not include a State or agency thereof;
- (3) “personal information” means information that identifies an individual, including an individual’s photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver’s status.<sup>[1]</sup>
- (4) “highly restricted personal information” means an individual’s photograph or image, social security number, medical or disability information; and
- (5) “express consent” means consent in writing, including consent conveyed electronically that bears an electronic signature as defined in section 106(5) of Public Law 106–229.

(Added Pub. L. 103–322, title XXX, § 300002(a), Sept. 13, 1994, 108 Stat. 2102; amended Pub. L. 106–346, § 101(a) [title III, § 309(b)], Oct. 23, 2000, 114 Stat. 1356, 1356A–24.)

[1] So in original. The period probably should be a semicolon.

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## Tenn. Code Ann. § 55-25-101

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### 55-25-101. Short title.

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This chapter shall be known and may be cited as the "Uniform Motor Vehicle Records Disclosure Act."

### History

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Acts 1996, ch. 745, § 13.

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## 55-25-102. Purpose.

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The purpose of this chapter is to implement the federal Drivers' Privacy Protection Act of 1994 (DPPA) (Title XXX of Public Law 103-322) (18 U.S.C. §§ 2721 -- 2725), in order to protect the interest of individuals in their personal privacy of prohibiting the disclosure and use of personal information contained in their motor vehicle records, except as authorized by these individuals or by law.

## History

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Acts 1996, ch. 745, § 2.

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**55-25-103. Chapter definitions.**

As used in this chapter, unless the context otherwise requires:

- (1)** "Department" means the department of safety, the department of revenue and the county clerk's office when acting as an agent of these departments, or the duly authorized agents or contractors thereof, responsible to compile and maintain motor vehicle records;
- (2)** "Disclose" means to engage in any practice or conduct to make available and make known personal information contained in a motor vehicle record about a person to any person, organization or entity, by any means of communication;
- (3)** "Express consent" means consent in writing, including consent conveyed electronically that bears an electronic signature as defined in 15 U.S.C. § 7006(5);
- (4)** "Highly restricted personal information" means an individual's photograph or image, social security number, medical or disability information;
- (5)** "Individual record" is a motor vehicle record containing personal information about a designated person who is the subject of the record as identified in a request;
- (6)** "Motor vehicle record" means any records that pertain to a motor vehicle operator's or driver license or permit, motor vehicle registration, motor vehicle title, or identification document issued by a department of safety, or other state or local agency authorized to issue any of these forms of credentials;
- (7)** "Person" means an individual, organization or entity, but does not include this state or an agency of this state;
- (8)** "Personal information" means information that identifies a person, including an individual's photograph, or computerized image, social security number, driver identification number, name, address excluding the five-digit zip code, telephone number, and medical or disability information, but does not include information on vehicular accidents, driving or equipment-related violations, and driver license or registration status; and

**(9)** "Record" includes all books, papers, photographs, photostats, cards, films, tapes, recordings, electronic data, printouts or other documentary materials regardless of physical form or characteristics.

## History

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Acts 1996, ch. 745, § 3; 2007, ch. 484, § 111.

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**55-25-104. Disclosure of personal information prohibited.**

Notwithstanding any other law to the contrary, except as provided in §§ 55-25-105 -- 55-25-107, the department, and any officer, employee, agent or contractor thereof, shall not disclose personal information about any person obtained by the department in connection with a motor vehicle record.

**History**

Acts 1996, ch. 745, § 4.

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55-25-105. Disclosure for safety, environmental, and federal compliance purposes. [Amendment contingent on funding by the federal selective service system. See the Compiler's Notes.]

**(a)** Personal information referred to in § 55-25-104 shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of nonowner records from the original owner records of motor vehicle manufacturers to carry out the purposes of the Federal Automobile Information Disclosure Act (15 U.S.C. § 1231 et seq.), the Motor Vehicle Information and Cost Savings Act (15 U.S.C. § 1901 et seq.), the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. § 1381 et seq.), the Anti-Car Theft Act of 1992 (15 U.S.C. § 2021 et seq.), and the Clean Air Act (42 U.S.C. § 7401 et seq.), as amended, and all statutes and agency regulations enacted or adopted pursuant to the authority of, or to attain compliance with, these acts of congress.

[Effective December 1, 2002, if contingency met.]

**(b)** Personal information referred to in § 55-25-104 shall be disclosed for use in connection with matters concerning the federal selective services system.

## History

Acts 1996, ch. 745, § 5; 2002, ch. 781, § 1.

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### 55-25-106. Consent.

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Personal information referred to in § 55-25-104 may be disclosed to any requesting person, if the person demonstrates, in the form and manner the department prescribes, that such person has obtained the written consent of the person who is the subject of the information.

### History

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Acts 1996, ch. 745, § 6.

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**55-25-107. Disclosure for certain purposes.**

**(a)** The department, or any officer, employee, or contractor of the department, shall not knowingly disclose or otherwise make available to any person or entity:

**(1)** Personal information about any person obtained by the department in connection with a motor vehicle record, except as provided in this section; or

**(2)** Highly restricted personal information about any person obtained by the department in connection with a motor vehicle record, without the express consent of the person to whom that information applies, except uses permitted in subdivisions (b)(1), (b)(4), (b)(6), and (b)(9); provided, however, that this subdivision (a)(2) shall not in any way affect the administration of organ donation initiatives in this state.

**(b)** Personal information referred to in subsection (a) shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of nonowner records from the original owner records of motor vehicle manufacturers to carry out the purposes of Titles I and IV of the federal Anti-Car Theft Act of 1992 (15 U.S.C. § 2021 et seq.), the federal Automobile Information Disclosure Act (15 U.S.C. § 1231 et seq.), the federal Clean Air Act of 1992 (42 U.S.C. § 7401 et seq., 49 U.S.C. § 30101 et seq., 49 U.S.C. § 30501 et seq., 49 U.S.C. § 32101 et seq., 49 U.S.C. § 33101 et seq.), and, subject to subdivision (a)(2), may be disclosed for use as follows:

**(1)** By any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a federal, state or local agency in carrying out its functions;

**(2)** In connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles, motor vehicle parts and dealers, motor vehicle market research activities,



including survey research, and removal of nonowner records from the original owner records of motor vehicle manufacturers;

**(3)** In the normal course of business by a legitimate business or its agents, employees, or contractors, but only:

**(A)** To verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

**(B)** If the information so submitted is not correct or is no longer correct, to obtain the correct information, but only for purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against the individual;

**(4)** In connection with any civil, criminal, administrative, or arbitral proceeding in any federal, state, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, state or local court;

**(5)** In research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals;

**(6)** By any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting;

**(7)** In providing notice to the owners of towed or impounded vehicles;

**(8)** By any licensed private investigative agency or licensed security service for any purpose permitted under this subsection (b);

**(9)** By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver license that is required under 49 U.S.C. § 31301 et seq.;

**(10)** In connection with the operation of private toll transportation facilities;

**(11)** For any other use in response to requests for individual motor vehicle records if the state has obtained the express consent of the person to whom the personal information pertains;

**(12)** In bulk distribution for surveys, marketing or solicitations if the state has obtained the express consent of the person to whom the personal information pertains;

**(13)** By any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains; and

**(14)** For any other use specifically authorized under the law of this state, if that use is related to the operation of a motor vehicle or public safety.

**(c)** An authorized recipient of personal information, except a recipient under subdivision (b) (11) or (b)(12), may resell or redisclose the information only for use permitted under subsection (b), but not for uses under subdivision (b)(11) or (b)(12). An authorized recipient under subdivision (b)(11) may resell or redisclose personal information for any purpose. An authorized recipient under subdivision (b)(12) may resell or redisclose personal information pursuant to subdivision (b)(12). Any authorized recipient, except a recipient under subdivision (b)(11), that resells or rediscloses personal information covered by this section shall keep for a period of five (5) years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and shall make those records available to the department of revenue or the department of safety upon request.

**(d)** The department of revenue or the department of safety may establish and carry out procedures under which the department or its agents, upon receiving a request for personal information that does not fall within one (1) of the exceptions in subsection (b), may mail a copy of the request to the individual about whom the information was requested, informing that individual of the request, together with a statement to the effect that the information

shall not be released unless the individual waives the individual's right to privacy under this section.

**(e)** Under no circumstances may the department of revenue or the department of safety condition or burden in any way the issuance of an individual's motor vehicle record to obtain express consent for the disclosure of that record. Nothing in this subsection (e) shall be construed to prohibit the department of revenue or the department of safety from charging an administrative fee for issuance of a motor vehicle record.

**(f)** Motor vehicle records, personal information, or highly restricted personal information shall be disclosed to any person by the department of revenue or the department of safety upon proof of the identity of the person requesting the record or information and representation by that person that the use of the personal information shall be strictly limited to one (1) or more of the permitted uses described in this section.

**(g)** Before issuing motor vehicle records, personal information, or highly restricted personal information, the department of revenue or the department of safety may require any person, federal, state, or local governmental agency requesting that information, or each of the requesting entity's contractors, officers or individuals in the employ of that person or governmental agency that will have access to the information, to execute a confidentiality agreement stating that the recipient, or the recipient's contractor, officer or employee, as the case may be, shall comply with the confidentiality provisions of this section and shall limit the use of the information to those uses specifically permissible under this section.

**(h)** No person, governmental agency, or contractor, officer or employee thereof who receives information under this section shall disclose that information to any person other than the person to whom it relates, except as otherwise may be authorized by this section or other applicable law.

## History

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Acts 1996, ch. 745, § 7; 2007, ch. 484, § 112; 2013, ch. 183, § 7.

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55-25-108. [Reserved.]

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**55-25-109. Ascertainment of requesting party's identity.**

The department may, prior to disclosure of personal information as permitted under §§ 55-25-105 -- 55-25-107 require the meeting of conditions by requesting the person for the purposes of obtaining reasonable assurance concerning the identity of the requesting person, and, to the extent required, that the use will be only as authorized, or the consent of the person which is the subject of the information has been obtained. These conditions may include, but need not be limited to, the making and filing of written application in a form and containing any information and certification requirements as the department may prescribe.

**History**

Acts 1996, ch. 745, § 9.

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55-25-110. [Reserved.]

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## 55-25-111. Rules and regulations.

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The department is authorized to adopt administrative regulations to carry out the purposes of this chapter. The regulations may include procedures under which the department, upon receiving a request for personal information that is not subject to disclosure in accordance with the exception provisions of §§ 55-25-105 -- 55-25-107, may mail a copy of the request to each individual who is the subject of the information, informing the individual of the request, together with a statement to the effect that disclosure is prohibited and will not be made unless the individual affirmatively elects to waive the individual's right to privacy under this chapter.

## History

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Acts 1996, ch. 745, § 11.

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## 55-25-112. Penalty for violations.

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Any person requesting the disclosure of personal information from department records who misrepresents that person's identity or makes a false statement to the department on any application required to be submitted pursuant to this chapter commits a Class C misdemeanor, punishable only by a fine not to exceed one thousand dollars (\$1,000).

## History

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Acts 1996, ch. 745, § 12.

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## Commercial Driver License Division

### ACD & CDLIS Manual Timeliness Requirements

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## ACD Manual

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### 3.1.4 Determining Retention Periods for Convictions and Withdrawals

The Non-Resident Violators Compact and [Federal Regulations \(49 CFR §384.231\(d\)\)](#) require minimum retention periods for convictions and withdrawals. The requirement applies to convictions for all drivers operating a CMV and to CLP/CDL holders operating any motor vehicle.

Retention periods are defined based on the assumption that jurisdictions will adhere to the reporting periods specified in federal regulations. Failure to report the convictions in a timely manner may allow drivers to escape the accumulated mandated penalties.

- Jurisdictions must retain records of convictions and associated withdrawals to ensure the reason for the disqualification is maintained (in addition, the requirement allows jurisdictions to select longer disqualification periods within their jurisdiction). In many cases the penalties for a second conviction are different than those for a first conviction, so the original conviction must be retained to allow the jurisdiction to check whether there is a prior conviction.
- The SOR (the jurisdiction that owns the MPR) must maintain convictions and withdrawals, regardless of where the offense occurred, until retention requirements are fulfilled. Specifically, the SOR must maintain in-state convictions and withdrawals that it has posted to the DHR, and valid convictions and withdrawals (1) sent from other jurisdictions (via the Report Out-of-State Conviction, Report Out-of-State Withdrawal, or Change State of Record transactions); (2) transferred in a CSOR; and (3) discovered in a 10-year history check, until retention requirements are fulfilled.
- The SOC (the jurisdiction required to send convictions to the SOR) must retain a record of the original conviction for as long as the SOR must retain the conviction in the CDLIS Driver Record.
- The SOW (the jurisdiction required to send withdrawals to the SOR) must retain a record of the original withdrawal (including linkages to any underlying convictions for withdrawals with an effective date on or after November 1, 2005) for as long as the SOR must retain the withdrawal in the CDLIS Driver Record.
- The following categories list the minimum time a conviction or withdrawal must be retained. Jurisdictions may choose to keep records longer than the stated retention requirements. The retention period may need to be extended to keep the conviction for the length of a disqualification retention period. When a license is transferred to a new jurisdiction, the minimum periods still apply; however, the new jurisdiction of record may apply its rules for maintaining convictions and withdrawals longer than the minimums. See [Appendix C: CDL Disqualification Periods for Certain Offenses](#) (on page 46) for a list of the violations (ACD codes) that must be retained for federally mandated penalties.
  - [Major Convictions](#): Retain for 55 years from the conviction date or for as long as any resulting withdrawal is retained – whichever is longer.
  - [Serious Convictions](#): Retain for 4 years from the conviction date or for as long as any resulting withdrawal is retained – whichever is longer.
  - [RRGC Convictions](#): Retain for 4 years from the conviction date or for as long as any resulting withdrawal is retained – whichever is longer.
  - [Out-of-Service Convictions](#): Retain for 15 years from the conviction date or for as long as any resulting withdrawal is retained – whichever is longer.
  - [Falsify](#): Retain for 3 years from the conviction date or for as long as any resulting withdrawal is retained – whichever is longer.

**Comment [OJ1]:** "(d) *Recordkeeping requirements*. The State must conform to the requirements of the CDLIS State Procedures Manual (incorporated by reference in §384.107(b).) These requirements include the maintenance of such driver records and driver identification data on the CDLIS as the FMCSA finds are necessary to the implementation and enforcement of the disqualifications called for in §§384.215 through 384.219, and 384.221 through 384.224 of this part."

- **Imminent Hazard:** Retain for 3 years from the conviction date or for as long as the resulting withdrawal is retained – whichever is longer.
- **USA PATRIOT Act:** Retain for 3 years from the conviction date or for as long as the resulting withdrawal is retained – whichever is longer.
- **All Other Convictions** (jurisdiction convictions that are mapped to the remaining ACD codes): Retain for a minimum of 3 years from the conviction date or for as long as any resulting withdrawal is retained – whichever is longer.
- **Withdrawal Actions:** Retain for the length of time the record of any underlying conviction is retained (specified above) **and** for a minimum of 3 years from the effective date, eligibility date, or reinstatement date, whichever is later. Federal regulations require that jurisdictions be able to tie their withdrawals to the underlying conviction(s) (where the withdrawal effective date is on or after November 1, 2005), so the same mechanism may be used for determining retention periods of the withdrawals and will ensure that a new SOR will not impose a second withdrawal on an underlying conviction. For withdrawals that have underlying convictions, the withdrawal must be retained for 3 years (as specified above) or for as long as any underlying convictions are retained, whichever period is longer. Withdrawals which cannot have underlying convictions (e.g., W72 [(Suspended pending final disposition)] and W00 [(Withdrawal for non- ACD reasons)]) must also be maintained for a minimum of 3 years.
- **See Appendix C for:**
  - The violations (ACD codes) and their retention periods that are based on the Federal CDL regulations.
  - Withdrawal Retention Periods.
  - A list of the ACD codes to be used for additional penalties required by the CDL Federal regulations based on multiple violations within a specified time frame.

## FMCSA CFR §384.215 - 384.219, and 384.221 - 384.224

[https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=&h=L&mc=true&r=PART&n=pt49.5.384#se49.5.384\\_1231](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=&h=L&mc=true&r=PART&n=pt49.5.384#se49.5.384_1231)

### §384.215 First offenses.

(a) *General rule.* The State must disqualify from operating a CMV each person who is convicted, as defined in §383.5 of this subchapter, in any State or jurisdiction, of a disqualifying offense specified in items (1) through (8) of Table 1 to §383.51 of this subchapter, for no less than one year.

(b) *Special rule for hazardous materials offenses.* If the offense under paragraph (a) of this section occurred while the driver was operating a vehicle transporting hazardous materials as defined in §383.5, the State shall disqualify the person for no less than three years.

[59 FR 26039, May 18, 1994, as amended at 67 FR 49762, July 31, 2002; 77 FR 59825, Oct. 1, 2012]

### §384.216 Second offenses.

(a) *General rule.* The State must disqualify for life from operating a CMV each person who is convicted, as defined in §383.5 of this subchapter, in any State or jurisdiction, of a subsequent offense as described in Table 1 to §383.51 of this subchapter.

(b) *Special rule for certain lifetime disqualifications.* A driver disqualified for life under Table 1 to §383.51 may be reinstated after 10 years by the driver's State of residence if the requirements of §383.51(a)(6) have been met.

[67 FR 49762, July 31, 2002; 78 FR 58480, Sept. 24, 2013]

### §384.217 Drug offenses.

The State must disqualify from operating a CMV for life any person who is convicted, as defined in §383.5 of this subchapter, in any State or jurisdiction of a first offense of using a CMV (or, in the case of a CLP or CDL holder, a CMV or a non-CMV) in the commission of a felony described in item (9) of Table 1 to §383.51 of this subchapter. The State shall not apply the special rule in §384.216(b) to lifetime disqualifications imposed for controlled substance felonies as detailed in item (9) of Table 1 to §383.51 of this subchapter.

[76 FR 26895, May 9, 2011]

### §384.218 Second serious traffic violation.

The State must disqualify from operating a CMV for a period of not less than 60 days each person who, in a three-year period, is convicted, as defined in §383.5 of this subchapter, in any State(s) or jurisdiction(s), of two serious traffic violations as specified in Table 2 to §383.51.

[67 FR 49762, July 31, 2002]

**§384.219 Third serious traffic violation.**

The State must disqualify from operating a CMV for a period of not less than 120 days each person who, in a three-year period, is convicted, as defined in §383.5 of this subchapter, in any State(s) or jurisdiction(s), of three serious traffic violations as specified in Table 2 to §383.51. This disqualification period must be in addition to any other previous period of disqualification.

[67 FR 49762, July 31, 2002]

**§384.221 Out-of-service regulations (intoxicating beverage).**

The State shall adopt, and enforce on operators of CMVs as defined in §§383.5 and 390.5 of this title, the provisions of §392.5 (a) and (c) of this title in accordance with the Motor Carrier Safety Assistance Program as contained in 49 CFR part 350 and applicable policy and guidelines.

**§384.222 Violation of out-of-service orders.**

The State must have and enforce laws and/or regulations applicable to drivers of CMVs and their employers, as defined in §383.5 of this subchapter, which meet the minimum requirements of §383.37(d), Table 4 to §383.51, and §383.53(b) of this subchapter.

[80 FR 59073, Oct. 1, 2015]

**§384.223 Railroad-highway grade crossing violation.**

The State must have and enforce laws and/or regulations applicable to CMV drivers and their employers, as defined in §383.5 of this subchapter, which meet the minimum requirements of §383.37(e), Table 3 to §383.51, and §383.53(c) of this subchapter.

[67 FR 49762, July 31, 2002, as amended at 78 FR 58480, Sept. 24, 2013]

**§384.224 Noncommercial motor vehicle violations.**

The State must have and enforce laws and/or regulations applicable to drivers of non-CMV, as defined in §383.5 of this subchapter, which meet the minimum requirements of Tables 1 and 2 to §383.51 of this subchapter.

[67 FR 49762, July 31, 2002]

ACD Manual Appendix C

C.1 TABLE 12 -- MAJOR OFFENSES

FMCSR	FMCSR Description	ACD Code	ACD Description
<b>Major Offenses</b>			
1st conviction = 1 yr; if while operating a CMV transporting hazardous materials as defined in § 383.5 = 3 yrs. 2nd conviction = life			
<b>Notes:</b> Disqualification period must be in addition to any other previous period of disqualification (run consecutively) [49 CFR §383.51(a)(5)] Applicable for CLP or CDL holder in any type of vehicle and non-CLP/CDL holders operating a CMV - except if the offense stipulates operation of a CMV only For 1st conviction – ACD Code of withdrawal is same as ACD Code of conviction; see W40 and A50 in Withdrawal section for further details			
<b>Exception:</b> A50 = life for 1st conviction without possibility of reinstatement <b>Retention Period:</b> 55 years from conviction date			
383.51(b)(1)	Operating motor vehicle under influence as prescribed by State Law	A08	Driving or operating a motor vehicle under the influence of alcohol with BAC at or over .08
		A10	Driving or operating a motor vehicle under the influence of alcohol with BAC at or over .10
		A11	Driving or operating a motor vehicle under the influence of alcohol with BAC at (detail required) – where the BAC is ≥ 0.08
		A20	Driving or operating a motor vehicle under the influence of alcohol or drugs
		A21	Driving or operating a motor vehicle under the influence of alcohol
		A23	Driving or operating a motor vehicle under the influence of alcohol and drugs
		A90	Administrative per se for BAC at or over .10
		A91	Administrative Per Se for BAC at _ _ (detail required) – where the BAC is ≥ 0.08
383.51(b)(2)	Operating motor vehicle being under the influence of controlled substance	A20	Driving or operating a motor vehicle under the influence of alcohol or drugs
		A22	Driving or operating a motor vehicle under the influence of drugs
		A23	Driving or operating a motor vehicle under the influence of alcohol and drugs
		A95	Administrative Per Se for Drugs

**Comment [OJ2]:** 383.5 Definition: "Hazardous materials means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73."

FMCSR	FMCSR Description	ACD Code	ACD Description
383.51(b)(3)	Operating CMV while having an alcohol concentration of 0.04 or greater	A04	Driving or operating a motor vehicle under the influence of alcohol with BAC of at least .04 but not greater than .079
		A11	Driving or operating a motor vehicle under the influence of alcohol with BAC at_(detail field required)
		A91	Administrative Per Se for BAC at _ _ (detail required) – where the BAC is ≥ 0.04
		A94	Administrative Per Se for BAC of at least .04 but not greater than .079 while driving or operating a CMV
383.51(b)(4)	Refusing to take alcohol test as required by a State of jurisdiction under its Implied consent laws or regulations as defined in 383.72	A12	Refusal to submit to test for alcohol – Implied Consent Law
383.51(b)(5)	Leaving scene of an accident	B01	Hit and run-failure to stop and render aid after accident
		B02	Hit and run-failure to stop and render aid after accident – Fatal accident
		B03	Hit and run-failure to stop and render aid after accident-Personal injury accident
		B04	Hit and run-failure to stop and render aid after accident-Property damage accident
		B05	Leaving scene before police arrive
		B06	Leaving scene before police arrive- Fatal accident
		B07	Leaving scene before police arrive-Personal injury accident
		B08	Leaving scene before police arrive- Property damage accident
383.51(b)(6)	Using vehicle to commit felony (not a traffic offense)	U03	Using a motor vehicle in connection with a felony (not traffic offense)
383.51(b)(7)	Driving a CMV when, as a result of prior violations committed operating a CMV, the driver's CLP or CDL is revoked, suspended, or canceled, or the driver is disqualified from operating a CMV	B20	Driving or operating a motor vehicle while license withdrawn (MCSIA)
		B21	Driving or operating a motor vehicle while license barred (MCSIA)
		B22	Driving or operating a motor vehicle while license canceled (MCSIA)
		B23	Driving or operating a motor vehicle while license denied (MCSIA)
		B24	Driving or operating a motor vehicle while license disqualified (MCSIA)
		B25	Driving or operating a motor vehicle while license revoked (MCSIA)

FMCSR	FMCSR Description	ACD Code	ACD Description
		B26	Driving or operating a motor vehicle while license suspended (MCSIA)
383.51(b)(8)	Causing a fatality through negligent operation of a CMV, including but not limited to the crimes of motor vehicle manslaughter, homicide by motor vehicle and negligent homicide	U07	Vehicle homicide
		U08	Vehicle manslaughter
		U09	Negligent homicide while driving or operating a CMV (MCSIA)
		U10	Causing a fatality through the negligent operation of a CMV (MCSIA)
383.51(b)(9)	Using the vehicle in commission of a felony involving manufacturing, distributing, or dispensing a controlled substance	A50	Motor vehicle used in commission of a felony involving manufacturing, distributing, or dispensing a controlled substance

**C.2 TABLE 13 -- SERIOUS OFFENSES**

FMCSR	FMCSR Description	ACD Code	ACD Description
<b>Serious Offenses</b>			
1st conviction = None 2nd conviction w/in 3 yrs.= 60 days 3rd conviction w/in 3 yrs.= 120 days			
<b>Notes:</b> Disqualification period must be in addition to any other previous period of disqualification (run consecutively)[49 CFR §383.51(a)(5)] Applicable for CLP or CDL holder in any type of vehicle and non-CLP/CDL holders operating a CMV - except if the offense stipulates operation of a CMV only			
<b>Exception:</b> For a CLP or CDL holder, offenses while operating a non-CMV must result in the revocation, cancellation or suspension of the CLP/CDL holder's permit/license or non-CMV driving privileges in state statute) <b>Retention Period:</b> 4 years from the conviction date or for as long as any resulting withdrawal is retained, whichever is longer.			
383.51(c)(1)	Speeding excessively, involving any speed of 24.1 Km/h (15 mph) or more above the regulated or posted speed limit	S15	Speeding 15 mph or more above regulated or posted speed limit
		S16	16-20 > Regulated or posted speed limit
		S21	21-25 > Regulated or posted speed limit
		S26	26-30 > Regulated or posted speed limit

		S31	31-35 > Regulated or posted speed limit
		S36	36-40 > Regulated or posted speed limit
		S41	41+ > Regulated or posted speed limit
		S71	21-30 > Regulated or posted speed limit
		S81	31-40 > Regulated or posted speed limit
		S91	41+ > Regulated or posted speed limit
		S92	Speeding (detail required to analyze speed)
383.51(c)(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	M84	Reckless driving or operating a motor vehicle
383.51(c)(3)		M42	Improper or erratic (unsafe) lane changes



FMCSR	FMCSR Description	ACD Code	ACD Description
	Making improper or erratic traffic lane changes		
383.51(c)(4)	Following the vehicle ahead too closely	M34	Following too closely
383.51(c)(5)	Violating state or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with a fatal accident	U31	Violation resulting in fatal accident
383.51(c)(6)	Driving a CMV without obtaining a CLP or CDL	B56	Driving or operating a CMV without obtaining a CLP or CDL (MCSIA)
383.51(c)(7)	Driving a CMV without a CLP or CDL in the driver's possession	B57	Driving or operating a CMV without a CLP or CDL in the driver's possession (MCSIA) B57 replaces the B51 effective August 1, 2011
383.51(c)(8)	Driving a CMV without the proper class of CLP or CDL and/or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported	B91	Driving without the proper class and/or endorsement on commercial or non-commercial permit or license for the specific vehicle group being operated or for the passengers or type of cargo being transported (MCSIA)  <b>Note:</b> 'Serious' violation only the offense occurred while in a CMV.

FMCSR	FMCSR Description	ACD Code	ACD Description
383.51(c)(9)	Violating a State or local law or ordinance on motor vehicle traffic control prohibiting texting while driving a CMV <sup>1</sup>	M85	Texting While Driving or Operating a Motor Vehicle Effective August 1, 2011 for convictions with a citation date on or after October 27, 2010 (depending on jurisdiction laws; compliance required by October 27, 2013)  <b>Note:</b> 'Serious' violation only the offense occurred while in a CMV.
383.51(c)(10)	Violating a State or local law or ordinance on motor vehicle traffic control restricting or prohibiting the use of a hand-held mobile telephone while driving a CMV <sup>1</sup>	M86	Violating prohibition on using a hand-held mobile telephone or other electronic mobile device while driving or operating a motor vehicle  Effective August 1, 2011  <b>Note:</b> 'Serious' violation only the offense occurred while in a CMV and if the citation date is on or after January 3, 2012 (depending on jurisdiction laws; compliance required by January 3, 2015)

<sup>1</sup>Driving, for the purpose of this disqualification, means operating a commercial motor vehicle on a highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Driving does not include operating a commercial motor vehicle when the driver has moved the vehicle to the side of, or off, a highway and has halted in a location where the vehicle can safely remain stationary.

**C.3 TABLE 14 -- RAILROAD-HIGHWAY GRADE CROSSING OFFENSES**

FMCSR	FMCSR Description	ACD Code	ACD Description
<b>Railroad-highway Grade Crossing Offenses</b>			
1st conviction = no less than 60 days 2nd conviction w/in 3 yrs.= no less than 120 days 3rd conviction w/in 3 yrs.= no less than 1 yr			
<b>Notes:</b> Disqualification period must be in addition to any other previous period of disqualification (run consecutively)[49 CFR §383.51(a)(5)] Only applicable when offense occurred in a CMV			
For 1st conviction – ACD Code of withdrawal is same as ACD Code of conviction; <b>Retention Period:</b> 4 years from the conviction date or for as long as any resulting withdrawal is retained, whichever is longer.			

FMCSR	FMCSR Description	ACD Code	ACD Description
383.51(d)(1)	Not required to always stop, but fails to slow down and check that tracks are clear of an approaching train	M20	For individuals driving or operating a CMV who are not required to always stop, failure to slow down at a railroad-highway grade crossing and check that tracks are clear of approaching train
383.51(d)(2)	Not required to always stop, but fails to stop before reaching the crossing, if the tracks are not clear	M21	For individuals driving or operating a CMV who are not required to always stop, failure to stop before reaching tracks at a railroad-highway grade crossing when the tracks are not clear
383.51(d)(3)	Always required to stop, but fails to stop before driving onto the crossing	M22	For individuals driving or operating a CMV who are always required to stop, failure to stop as required before driving onto railroad-highway grade crossing
383.51(d)(4)	Fails to have sufficient space to drive completely through the crossing without stopping	M23	For all individuals driving or operating a CMV, failing to have sufficient space to drive completely through the railroad-highway grade crossing without stopping
383.51(d)(5)	Fails to obey a traffic control device or the directions of an enforcement official at the crossing	M10	For all individuals driving or operating a CMV, failure to obey a traffic control device or the directions of an enforcement official at a railroad-highway grade crossing
383.51(d)(6)	Fails to negotiate a crossing because of insufficient undercarriage clearance	M24	For all individuals driving or operating a CMV, failing to negotiate a railroad-highway grade crossing because of insufficient undercarriage clearance

**C.4 TABLE 15 -- VIOLATING OUT-OF-SERVICE ORDER OFFENSES**

FMCSR	FMCSR Description	ACD Code	ACD Description
<b>Violating Out-of-Service Orders</b>			
1st conviction = no less than 180 days or more than 1 yr 1st conviction w/hazmat or in vehicle designed to transport 16+ passenger = no less than 180 days or more than 2 yrs 2nd conviction w/in 10 yr = no less than 2 yrs.or more than 5 yrs. 2nd conviction w/hazmat or in vehicle designed to transport 16+ passenger = no less than 3 yrs.or more than 5 yrs 3rd conviction w/in 10 yr (no distinction for hazmat or number of passengers) = no less than 3 yrs.or more than 5 yrs			
<b>Notes:</b>			
Disqualification period must be in addition to any other previous period of disqualification (run consecutively)[49 CFR §383.51(a)(5)]			

FMCSR	FMCSR Description	ACD Code	ACD Description
(Only applicable when offense occurred in a CMV)			
For 1st conviction – ACD Code of withdrawal is same as ACD Code of conviction; <b>Retention Period:</b> 15 years from the conviction date or for as long as any resulting withdrawal is retained, whichever is longer.			
383.51(e)(1)	Violating a driver or vehicle out-of-service order while transporting nonhazardous materials	B27	Driving or operating a CMV in violation of a driver or vehicle out-of-service order (for violations not covered by B19)
383.51(e)(2)	Violating a driver or vehicle out-of-service order while transporting hazardous materials as defined in § 383.5 or while operating a vehicle designed to transport 16 or more passengers, including the driver	B19	Driving or operating a CMV in violation of a driver or vehicle out-of-service order while transporting hazardous materials as defined in §383.5, or while driving or operating a vehicle designed to transport 16 or more passengers, including the driver

**C.5 TABLE 16 -- FALSIFY OFFENSES**

FMCSR	FMCSR Description	ACD Code	ACD Description
<b>Falsify/Fraud Offenses</b>			
Each conviction = D30 – no less than 60 days; D31 – no less than 1 year			
For each conviction – ACD Code of withdrawal is same as ACD Code of conviction; <b>Retention Period:</b> 3 years from the conviction date or for as long as any resulting withdrawal is retained, whichever is longer.			
383.73(j)	Penalties for false information. If a State determines, in its check of an applicant's license status and record prior to issuing	D30	

FMCSR	FMCSR Description	ACD Code	ACD Description
	a CLP or CDL, or at any time after the CLP or CDL is issued, that the applicant has falsified information contained in subpart J of this part, in any of the certifications required in §383.71(b) or (g), or in any of the documents required to be submitted by §383.71(h), the State must at a minimum disqualify the person's CLP or CDL or his/her pending application, or disqualify the person from operating a commercial motor vehicle for a period of at least 60 consecutive days.		Misrepresentation of identity or other facts on application, including required self-certifications, for CLP or CDL
383.73(k)(1)	The State must have policies in effect that result, at a minimum, in the disqualification of the CLP or CDL of a person who has been convicted of fraud related to the issuance of that CLP or CDL. The application of a person so convicted who seeks to renew, transfer, or upgrade the fraudulently obtained CLP or CDL must also, at a minimum, be disqualified. The State must record any such withdrawal in the person's driving record. The person may not reapply for a new CDL for at least 1 year.	D31	Fraud related to the issuance of a CLP or CDL

**C.6 TABLE 17 -- USA PATRIOT ACT OFFENSES**

FMCSR	FMCSR Description	ACD Code	ACD Description
<b>USA PATRIOT Act Offense</b>			
1st conviction = INDEF 2nd conviction = N/A 3rd conviction = N/A  <b>Retention Period:</b> 3 years from the conviction date or for as long as any resulting withdrawal is retained, whichever is longer.			
383.141(c)	Disqualification not required – removal of hazmat endorsement only.	W09	Failure to surrender hazmat endorsement as required by USA PATRIOT Act (not a withdrawal of privilege)

FMCSR	FMCSR Description	ACD Code	ACD Description

**C.7 TABLE 18 -- WITHDRAWAL DISQUALIFICATION PERIODS**

FMCSR	FMCSR Disqualification Period	ACD	ACD Code Description	FMCSR Category
<b>Withdrawal Disqualification Periods</b>				
<b>Note:</b> disqualification period must be in addition to any other previous period of disqualification (run consecutively)[49 CFR §383.51(a)(5)]				
381.51(b)(9)	Lifetime	A50	First violation of using a motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance. (ineligible for reinstatement)	Major
383.73(k)(2)	Indefinite; driver must reapply for a CLP or CDL under State procedures applicable to all CLP and CDL applicants	W27	Failure to make an appointment within 30 days of receiving notification that re-testing is necessary [when fraud is suspected]	Falsify
383.73(k)(2)	Indefinite; driver must reapply for a CLP or CDL under State procedures applicable to all CLP and CDL applicants	W28	Failure to retest or failure of scheduled test(s) [when fraud is suspected]	Falsify
383.51(c)	60 days for second serious offense w/in 3 yr	W30	Two serious violations within three years	Serious
383.51(c)	120 days for third serious offense w/in 3 yr	W31	Three serious violations within three years	Serious
383.51(b)(1) - (8)	Lifetime for 2nd major offense	W40 <sup>1</sup>	The accumulation of two or more major offenses	Major
383.51(b)(1) - (8)	Lifetime after reinstatement	W41 <sup>2</sup>	An additional major offense after reinstatement (ineligible for further reinstatement)	Major

FMCSR	FMCSR Disqualification Period	ACD	ACD Code Description	FMCSR Category
383.51(b)(7)	1 year minimum	W45	Withdrawal for driving or operating a CMV while disqualified for previous violations in a CMV  Suspended for driving a CMV while disqualified for previous violations in a CMV  Used as first withdrawal conviction for driving a CMV while suspended for violations in a CMV with only one underlying conviction which must be B20-B26	Major
383.51(e)	No less than 2 years or more than 5 years	W50	The accumulation of two out-of-service order general violations (violations not covered by W51) within 10 years  <b>Note:</b> applies if the 2nd conviction is a B27	OOSO
383.51(e)	No less than 3 years or more than 5 years	W51	The accumulation of two out-of-service order violations where the second is within ten years while transporting hazardous materials as defined in § 383.5 or operating a vehicle designed to transport 16 or more passengers, including the driver  <b>Note:</b> applies if the 2nd conviction is a B19	OOSO
383.51(e)	No less than 3 years or more than 5 years	W52	The accumulation of three or more out-of-service order violations within 10 years	OOSO
383.51(d)	No less than 120 days	W60	The accumulation of two RRGC violations within 3 years	RRGC
383.51(d)	No less than 1 year	W61	The accumulation of three or more RRGC violations within 3 years	RRGC
383.52	Up to 1 year	W70	Imminent hazard (MCSIA)	IH

<sup>1</sup>A W40 disqualification is by default a lifetime disqualification. Any driver disqualified because of two or more convictions for an offense in Groups 1-8 above, who has both voluntarily enrolled in and successfully completed, an appropriate rehabilitation program that meets the standards of his/her Jurisdiction's driver licensing agency may apply to the licensing agency for reinstatement of his/her commercial driver's license. Such applicants shall not be eligible for reinstatement from the Jurisdiction unless and until he/she has first served a minimum disqualification period of 10 years. If a reinstated driver is subsequently convicted of another disqualifying offense, as specified above, he/she must be permanently disqualified for life, and shall be ineligible to again apply for a reduction of the lifetime disqualification.

**Comment [OJ3]:** 383.5 Definition: "Imminent hazard" means the existence of any condition of vehicle, employee, or commercial motor vehicle operations that substantially increases the likelihood of serious injury or death if not discontinued immediately; or a condition relating to hazardous material that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury or endangerment."

<sup>2</sup>The 'W41' is used exclusively for a conviction of a major offense after reinstatement for a driver disqualified for life. Even if a jurisdiction will never reinstate after a second conviction for a major offense, it cannot use 'W41' except in the specific case for which the 'W41' was created.

**C.8 TABLE 19 -- WITHDRAWAL RETENTION PERIODS**

<b>Withdrawal Retention Periods</b>
<p>Retain for the length of time the record of any underlying conviction is retained (specified above) and for a minimum of 3 years from the effective date, eligibility date, or reinstatement date, whichever is later. Federal regulations require that jurisdictions be able to tie their withdrawals to the underlying conviction(s) (where the withdrawal effective date is on or after November 1, 2005), so the same mechanism may be used for determining retention periods of the withdrawals and will ensure that a new SOR will not impose a second withdrawal on an underlying conviction.</p> <p>For withdrawals that have underlying convictions, the withdrawal must be retained for 3 years (as specified above) or for as long as any underlying convictions are retained, whichever period is longer. Withdrawals which cannot have underlying convictions (e.g., W72 [(Suspended pending final disposition)] and W00 [(Withdrawal for non-ACD reasons)]) must also be maintained for a minimum of 3 years.</p>

**C.9 TABLE 20 -- CODES COVERED BY FMCSA POLICY MEMORANDUM CDL-04-001**

<b>Other ACD Codes Not Disqualifying But Pursuant to Memorandum CDL-04-001 (January 16, 2004) Require Licensing State to Take Action Against Licensee for FTA/FTP/FTC as if Offense Occurred In-state</b>		
383.5 Definition of conviction: "...an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.....the payment of a fine or court cost.....or violation of a condition of release without bail"	D45	Failure to appear for trial or court appearance
	D53	Failure to make required payment of fine and costs
	D56	Failure to answer a citation, pay fines, penalties and/or costs related to the original violation



### 8.1.2.3 Withdrawal Information in the DHR

The following rules pertain to withdrawal information in the DHR.

- ACD withdrawals (*i.e.* withdrawals that map to an ACD withdrawal reason code valid in the current ACD Manual) are required in the DHR. Non-ACD withdrawals may be stored in the SOR's internal records but are not sent in response to a driver history request.
- The jurisdiction that issues a withdrawal determines when the withdrawal is effective, in accordance with its own laws (to allow time for notifying the driver). Jurisdictions should not post withdrawals that are not final (*i.e.* the final determination has not been received from the court or administrative tribunal), to avoid the possibility of reversing them.
- When a withdrawal is final, there may be a waiting period before the withdrawal takes effect. During that period, the Withdrawal Pending Flag is set to '1' (yes). Since some federally mandated withdrawals must be served consecutively, not concurrently, with any other withdrawals, there may be more than one withdrawal pending, and each may have a different effective date. When the latest Withdrawal Effective Date on the DHR is reached, the Withdrawal Pending Flag is reset to '2' (no).
- The SOR must maintain complete and accurate withdrawal information in the CDLIS DHR, in accordance with data validations specified in the CDLIS System Specifications.
- The jurisdiction as a whole, not just the SDLA, is held responsible for complying with federal regulations for reporting and recording withdrawals. If the SDLA receives a withdrawal with missing required information or invalid information from a court, then the SDLA must work with the court to correct the information.
- Jurisdictions are strongly encouraged to remove withdrawals that no longer meet retention requirements. [See the ACD Manual for details about the retention requirements for withdrawals](#) in the DHR.
- Each withdrawal for offenses listed in [49 CFR §383.51](#) (Driver Disqualifications and Penalties), [49 CFR 383.73\(g\)](#) (State Procedures), and [49 CFR §383.141](#) (USA PATRIOT Act), with a withdrawal effective date on or after November 1, 2005 must be linked on the CDLIS DHR to all of its underlying ACD conviction(s), regardless of the conviction dates of the underlying convictions. **For example, an SOR withdrawal with a notice sent on October 6, 2005 and an effective date on November 6, 2005 must be posted to the DHR and linked to underlying convictions within 10 days of November 6.**

**Comment [OJ4]:** This section is longer in the CDLIS manual, but there were no more time frames listed in the section, so I cut it off here

#### 8.1.2.4 Medical Certificate and Variance Information in the DHR

The following rules pertain to medical certificate and variance information in the DHR [see 49 CFR §§384.234, 383.71 and 383.73].

All commercial drivers are required to self certify one of the following type of operation in which he/she operates or plans to operate [see 49 CFR §§383.71(a)(1)(ii) for initial CDLs, and 383.71(g) for existing CDL holders]:

- Non-excepted interstate
- Excepted interstate
- Non-excepted intrastate
- Excepted intrastate

A driver who certifies non-excepted interstate operation is required to undergo a medical examination, but not required to carry a medical examiner's certificate while operating a CMV. However, drivers must carry the SPE and/or waiver documentation while operating a CMV. Drivers who certify in any of the other three categories are not subject to these requirements from a federal standpoint although some jurisdictions require a medical certificate for all CDL holders.

For those drivers certifying non-excepted interstate operation, the SDLA must perform the following:

- Post the following information to the CDLIS driver record within 10 business days from the time the medical certificate is received at the SDLA:
  - o The driver's self certification of the type of driving
  - o The driver's medical certificate status
  - o The medical examiner's name
  - o The medical examiner's telephone number
  - o The medical examiner's specialty
  - o Issue date of the medical certificate
  - o Expiration date of the medical certificate
  
  - o Medical Examiner's license or certificate
  - o The jurisdiction that issued the Medical Examiner's license or certificate\
  - o Indicator of medical certification status ('certified' or 'not certified')
  - o The existence of any medical variance on the medical certificate
  - o Any restrictions specified on the medical certificate
- Retain the original or a copy of the medical certificate for 3 years

Note that Jurisdictions must be in compliance with the Medical Certificate requirements by January 30, 2012. Data on all CDL holders must be captured by January 30, 2014.

No later than July 8, 2015, jurisdictions must perform the following:

- Add a 'K' Restriction to all Excepted intrastate 'EA' and Non-excepted intrastate 'NA' drivers

Jurisdictions may also receive variances directly from FMCSA. These are provided to the jurisdiction's contact by the FMCSA Medical Program [see 49 CFR §383.73(j)]. These include

- Exemptions [see 49 CFR §381.315]
- Skill Performance Evaluations (SPEs) [see 49 CFR §391.49]
- Beginning January 30, 2012, jurisdictions must perform the following :
  - o Include the effective date and expiration date of any variance on the CDLIS driver record
  - o Add a 'V' restriction to the CDLIS driver record



### 8.1.3 Rules for Responding to a Driver Status Request or History Request

In the CDLIS State-to-State Status Request (S2SSR), the SOR must report the driver status to the SOI, as specified in the State-to-State Status Request (CD03) of the CDLIS System Specifications. In the CDLIS State-to-State History Request (S2SHR) and Change State-of-Record (CSOR) Transactions, the SOR/Old SOR must report the entire driver history to the SOI/New SOR as specified in the State-to-State History Request (CD04) and Change State-of-Record (CD08), respectively, of the CDLIS System Specifications. The following rules apply to the driver status and history information in one or more of these transactions.

- An SOR must send the entire ACD History when responding to a CSOR or history request. The entire ACD history includes all of the following on a driver's record:
  - CDL-holder ACD convictions
  - CMV ACD convictions
  - non-CDL ACD convictions
  - non-CMV ACD convictions

The 10-year history checks are required because some convictions have been dropped in the past. All convictions received during the 10-year history check must be posted and evaluated.

- If a jurisdiction cannot transmit or receive all the information electronically, what information can be transmitted electronically must be transmitted via CDLIS and all of the history information (convictions, withdrawals, and linkages) must be mailed. Jurisdictions must indicate in the mailed packet which mailed information duplicates data already transmitted via CDLIS. See "APPENDIX C –CONDUCTING SELECTED CDLIS TRANSACTIONS BY MAIL" for rules and procedures for mailing history.

Note that Jurisdictions are encouraged to purge convictions and withdrawals that no longer meet data retention requirements (jurisdictions may purge whichever convictions and/or withdrawals they desire once there is no requirement to maintain them); however, all convictions and withdrawals currently on a driver's record must be sent in response to any history request – not just those that meet data retention requirements

- The CDLIS SOR must be the only jurisdiction that responds to a CDLIS State-to-State History Request or a CDLIS State-to-State Status Request. A jurisdiction that is not the current SOR must not respond to a CDLIS State-to-State Status Request or History Request, except that an Old SOR must respond to the New SOR while the CSOR is in progress. Note that a jurisdiction must respond to a PDPS State-to-State Status Request and a PDPS State-to-State History Request, whether or not it has ever issued a license to the requested individual or posted a pointer to PDPS.
- Should the Old SOR receive either a State-to-State Status Request (SG message) or a State-to-State History Request (SB message) at any time after the Change State of Record process has been initiated (other than from the New SOR), the old SOR **must** respond by returning the request to a State of Inquiry (SOI) as an error. The New SOR is permitted to submit a Status Request or a Driver History Request to the Old SOR and receive the responses until the Change State of Record is complete. A former SOR must respond to an inquiry on a driver for which it is no longer the SOR with an error. Upon receipt of the CSOR History Request (SD) message from the CDLIS Central Site during the CSOR transaction, the Old SOR must clearly annotate its driver's record to indicate that it is no longer the SOR.
- The SOR/Old SOR must not report convictions or withdrawals with retired ACD codes.
- A withdrawal for offense(s) listed in [49 CFR §383.51](#) (Driver Disqualifications and Penalties), [49 CFR 383.73\(g\)](#) (State Procedures), and [49 CFR §383.141](#) (USA PATRIOT Act), with an effective date on or after November 1, 2005 must be linked to any and all of the underlying ACD convictions that resulted in

the withdrawal. The SOR must also send the links between each ACD withdrawal that has a Withdrawal Effective Date of November 1, 2005 or later, and each of its underlying ACD convictions. A set of links from each underlying conviction to the resulting withdrawal is sent as one block in the H7 message and is called a linkage.

- o Some withdrawals, such as a W09 withdrawal, may not have underlying ACD convictions
- o A withdrawal with an ACD withdrawal code = 'W00', i.e., a non-ACD withdrawal, never has underlying ACD convictions.
- AAMVA recommends that each out-of-state and in-state ACD withdrawal [i.e., not just each withdrawal for federally mandated offense(s), or offense(s) covered under the USA PATRIOT Act] with an effective date on or after November 1, 2005 be
  - o linked on the DHR to any and all of the out-of-state and in-state underlying ACD convictions that resulted in the withdrawal, and
  - o its linkage be sent when responding to a history request, including a history request in support of a CSOR.
- In the STSHR and CSOR Transactions, the SOR must send the convictions, withdrawals, and withdrawal- conviction(s) linkages on record. If the SOR can't transmit all the convictions, withdrawals and linkages on record via CDLIS, it must transmit the information that can be processed successfully and then it must mail all the convictions, withdrawals, and linkages.
  - o The SOR can transmit no more than 50 convictions in the H3 message. If more than 50 convictions are on record, the SOR must transmit the 50 most recent convictions and mail the entire driver history, including all of the convictions, withdrawals, and withdrawal-conviction(s) linkages on record (see CDLIS System Specifications, CD04).
  - o The SOR can transmit no more than 50 withdrawals in the H5 message. If more than 50 withdrawals are on record, the SOR must transmit the 50 most recent withdrawals and mail the entire driver history, including all of the convictions, withdrawals, and withdrawal-conviction(s) linkages on record (see CDLIS System Specifications, CD04.2.4.5 and CD08.3.5.5).
  - o The SOR can transmit no more than 50 withdrawal-conviction(s) linkages. The SOR must not transmit a linkage if the SOR does not transmit the withdrawal in the H5 message or if the SOR does not transmit at least one underlying conviction in the H3 message. If the SOR transmits at least one underlying conviction in the H3 message but does not transmit all of the underlying convictions in the H3 message, the SOR either must not transmit the linkage or must transmit a partial linkage that has trailing blanks for the conviction IDs of the underlying convictions not transmitted in the H3 message. If the SOR cannot transmit all of the linkages with all the underlying conviction information, it must transmit all the linkages allowed in the H7 message and mail the entire driver history, including all of the convictions, withdrawals, and withdrawal- conviction(s) linkages on record (see CDLIS System Specifications).
  - o If the information below exists on the CDLIS DHR but cannot be transmitted via CDLIS because one or both jurisdictions lack the capability to electronically process the information successfully, **all the convictions, withdrawals, and withdrawal linkages must be mailed.**
    - **Convictions with new ACD conviction codes (H3 data)**
    - **Withdrawals with new ACD withdrawal codes (H5 data)**
    - **Withdrawal-conviction(s) linkages (H7 data)**
- In the STSSR, STSHR, and CSOR Transactions, if the SOI/New SOR and/or the SOR/Old SOR cannot process all the driver license and endorsement information electronically, the SOR/Old SOR must transmit the information that it and the SOI/New SOR can process. For example, if all of the convictions cannot be processed in a CSOR Transaction, the Old SOR must transmit the convictions that can be processed and then it must mail all convictions, withdrawals, and linkages to the New SOR. Similarly, if the summary results of the TSA Threat Determination and the summary results of the 10-year history check (if one has been initiated) cannot be processed in

the electronic CSOR Transaction, the Old SOR must mail the information to the New SOR.

- The paper history response must be equivalent to the electronic history response in functionality. Similar to the electronic transaction, when an SOI finds an error in a mailed history response, the SOI must return the form back to the sending jurisdiction with an explanation of the error instead of returning the form (or a

logging form) as a confirmation. The New SOR may return the form in error or may work with the Old SOR to correct the error, to avoid putting the CSOR in suspense. The sending jurisdiction then has the responsibility to correct the error. However, in the electronic transaction, the network interface software (*e.g.* UNI) logs will have a record that the SOI/New SOR returned a message in error, which can be checked by compliance reviewers. For the same functionality in the paper transaction, jurisdictions should keep a copy of the returned form (1) until the error is corrected, or (2) for as long as the jurisdiction is the SOR for the driver, whichever time period is shorter.

- Jurisdictions that are not sending history information according to the CDLIS specifications may have a finding created on them. This will show up on their Quarterly Compliance report.
- In the rare cases where the SOR transmits and mails the same information, the SOI must take care to ensure that it correctly identifies duplicated information.
- When an SOI finds an error in a driver status response message or driver history message, the SOI must reject the history, according to the following rules.
  - If an SOI finds an error on an HC or HG driver status message or an HB driver history message, the SOI must return the erroneous message in error.
  - If an SOI finds an error on an H2, H3, H4, H5, H6, or H7 message, the SOI must perform one of the following:
    - Return the corresponding HB, HC or HG message with an error explaining the error on the H2-H7 message
    - Return the erroneous H2-H7 message in error
- When a New SOR finds an error on a driver history response message in a CSOR Transaction, the New SOR must do the following.
  - If a New SOR finds an error on an HD driver history message in a CSOR Transaction, the New SOR must perform one of the following.
    - Return the erroneous message
    - Accept the message and manually notify the Old SOR of the error
  - If a New SOR finds an error on an H3, H4, H5, or H7 message, the New SOR must do one of the following:
    - Return the corresponding HD message with an error explaining the error on the H2-H7 message
    - Return the erroneous H2-H7 message in error
    - Accept the message and manually notify the Old SOR of the error
- When a New SOR receives the driver history, the New SOR must act as expeditiously as possible to assess any convictions on a driver's record to determine if any driver control actions are necessary.
  - When several convictions that warrant a withdrawal are listed in the driver history but no withdrawal was assessed, the New SOR must assess a withdrawal. However, withdrawals assessed before the MCSIA deadline may not be linked to underlying convictions in the driver history. The SOR is expected to check with the SOW when it is unclear from the record whether a previous SOR took the correct action.
  - Federal regulations do not require a New SOR to determine if a "points" withdrawal should have been taken by a previous SOR. "Points" withdrawals are a jurisdiction issue, not a federal issue.

- For "CDLIS convictions" (convictions of violations by a CDL Holder or while operating a CMV), all required data must be provided. Although convictions for ACD violations in a non-CMV prior to obtaining a CDL are not used to disqualify a CDL holder, the entire ACD history must be sent in the CSOR and STSHR transactions.
- Information on PDPS, if any, should match information in a CDLIS driver's DHR maintained by the CDLIS SOR. If the SOR finds information on PDPS that is missing from the driver's DHR at the SOR, the SOR must contact the other jurisdiction(s) and ask for this information. The SOR should also notify the AAMVA Operations Help Desk when there is information showing on PDPS that should be on the CDLIS DHR. The Help Desk will write create a finding, if applicable, and assist the jurisdiction in correcting this problem. After receiving missing conviction and withdrawal information from the SOC(s) and SOW(s), the SOR must apply whatever sanctions are required.
- If a withdrawal in the H5 message has an effective date prior to November 1, 2005, the SOI/New SOR must not reject the withdrawal with an error message that the withdrawal lacks a linkage to an underlying conviction. These "pre-MCSIA" withdrawals are not required to be linked to an underlying conviction. If a receiving jurisdiction continues to incorrectly reject the H5 message, the sending jurisdiction should report the receiving jurisdiction to the AAMVA Operations Help Desk
- Whether a withdrawal in the H5 message has an effective date prior to, on or after November 1, 2005, the SOI/New SOR must not reject the withdrawal with an error message that the withdrawal lacks a linkage to an underlying conviction, unless the withdrawal ACD code indicates that the withdrawal is for offense(s) listed in 49 CFR §383.51 (Driver Disqualifications and Penalties), 49 CFR 383.73(g) (State Procedures), and 49 CFR §383.141 (USA PATRIOT Act). Transmitting the linkage to an underlying conviction is optional, unless the withdrawal for one of the offenses listed above. However, to minimize the need for manual intervention, AAMVA recommends that the SOR transmit the linkage to underlying ACD conviction(s) for all ACD withdrawals with a withdrawal effective date on or after November 1, 2005.
- The FMCSA node does not maintain history and may only initiate requests for status and history for enforcement personnel. Responses to status and history requests are the only messages that can be sent to the 'FH' node. The 'FH' node does not send or receive information via mail, so responses must be sent online.

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## 8.2 JURISDICTION ADDS DRIVER RECORD

When a jurisdiction grants a CDL to an applicant who doesn't have an MPR and DHR, the jurisdiction must create the DHR and add the MPR. 49 CFR § 384.207(a) requires this be **done within 10 days of CDL issuance**. When an SOC convicts a driver who doesn't divulge his/her jurisdiction of licensure, the SOC must create the DHR and add the MPR. The following sections describe the procedures for accomplishing these requirements.

**Comment [OJ5]:** Following procedure sections not listed. Did not contain any further timeliness requirements

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## 8.3 JURISDICTION CHANGES DRIVER IDENTIFICATION INFORMATION

At times, a jurisdiction may find it necessary to change or correct primary or AKA data on the CDLIS Master Pointer Record (MPR) and the CDLIS DHR. This may be a result of a change in a driver's personal information (*e.g.* name change) or the identification of erroneous data that should be modified (*e.g.* misspelling of name, correction of transposed numbers in SSN). 49 CFR §384.207(b) requires any changes to driver identification information be posted to CDLIS **within 10 days of notification to the SDLA**.

**Comment [OJ6]:** Following procedure sections not listed. Did not contain any further timeliness requirements

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## 8.4 JURISDICTION NOTIFIED OF DUPLICATE DRIVER

The CDLIS Central Site maintains links on any other drivers with whom the driver is considered a potential duplicate. Jurisdictions must make every effort to **expeditiously resolve potential duplicates within 96 hours**. If an SOR attempts to submit a CSOR on a driver marked as having unresolved potential duplicates, the CDLIS Central Site will reject the transaction with an error.

**Comment [OJ7]:** Following procedure sections not listed. Did not contain any further timeliness requirements



## **8.6 JURISDICTION REMOVES DRIVER RECORD**

The following sections contain procedures and reasons for removing the Driver History Record and Master Pointer Record.

### **8.6.1 Data Retention Requirements Satisfied**

The MPR of either a deceased driver or a driver whose license has expired can be deleted after 1 year beyond the license expiration date, but only if the history record does not contain any convictions and/or withdrawals that have not met data retention requirements (see 5.2 CDLIS DATA RETENTION AND AVAILABILITY). If the driver's record contains history entries that must be retained, the SOR must maintain the driver's record until such time as the last history entry is eligible for purge. See the Data Retention Section of the AAMVAnet Code Dictionary (ACD)

Manual to determine data retention requirements for specific convictions and withdrawals in the DHR.

After the proper conditions for the purge of a driver's pointer record are satisfied, the SOR may initiate the Delete Master Pointer Record transaction.

### **8.6.2 Verification of MPR to be Deleted**

Prior to deleting a Master Pointer Record, the SOR must initiate a Verification Inquiry (see CDLIS System Specifications, CD02) to the CDLIS Central Site to ensure identification of the correct MPR to be deleted.

#### **8.6.2.1 No Matching Drivers on CDLIS.**

If the Search Inquiry or Verification Inquiry returns no matches from CDLIS for the driver, either the inquiry was submitted with incorrect data, the record has already been deleted, or there is an error in CDLIS. Because the SOR had reason to believe the Inquiry should have returned the MPR information, the SOR must verify the input data and, if correct, contact the AAMVA Operations Help Desk for assistance in resolving this situation.

#### **8.6.2.2 Matching Drivers on CDLIS.**

Ideally, only one match (that of the driver) will be received from the submission of the Verification Inquiry (see CDLIS System Specifications, CD02). If the CDLIS Central Site returns more than one match, the jurisdiction must ensure the driver is one of them.

### **8.6.3 Master Pointer Record Created in Error**

The only drivers for whom a MPR should exist are those who:

- currently possess a CDL or CDL permit
- no longer hold a CDL and the data retention requirements demand that the record remain on CDLIS
- have never possessed a CDL but who have been convicted of an offense while driving a commercial motor vehicle as defined in 49 CFR §383.5

When an MPR is created in error by an Add New Driver transaction, because the driver already existed on CDLIS, the erroneous MPR must be deleted and a CSOR transaction must be initiated. This corrective procedure ensures the complete driver's history is maintained by the SOR. If the procedure to submit a Search Inquiry transaction (see CD01) prior to an Add Driver transaction is adhered to, this situation should not occur.

If possible duplicates were cleared as a result of a Delete Master Pointer transaction; any SOR previously notified of a possible duplicate situation is notified that the situation has been resolved.

#### **8.6.4 Prohibitions**

The Delete Master Pointer Record transaction must not be used by a jurisdiction to void an unwanted MPR. Once a valid Add New Driver transaction is accepted by the CDLIS Central Site, the driver's record must remain both in the CDLIS database and the SOR's database until it is eligible for deletion.

Data on drivers that may have multiple identities (*i.e.*, AKA names and ST/DLNs) must be maintained using the CDLIS Change Data transaction (see CDLIS System Specifications, CD09) or the Update AKA Data transaction (see CDLIS System Specifications, CD15), and not by using a Delete Master Pointer Record transaction followed by an Add New Driver transaction. Deleting and re-adding the Master Pointer Record would have the effect of eliminating the driver's history from CDLIS.

The Delete Master Pointer Record transaction must not be used to resolve a possible duplicate if the driver's record is not eligible for deletion as described above.

**FMCSA CFR §383.51**

[https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=&h=L&mc=true&r=PART&n=pt49.5.383#se49.5.383\\_151](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=&h=L&mc=true&r=PART&n=pt49.5.383#se49.5.383_151)

**§383.51 Disqualification of drivers.**

(a) *General.* (1) A person required to have a CLP or 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 holder of a CLP or CDL is subject to disqualification sanctions designated in paragraphs (b) and (c) of this section, if the holder drives a CMV or non-CMV and is convicted of the violations listed in those paragraphs.

(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) The disqualification period must be in addition to any other previous periods of disqualification.

(6) *Reinstatement after lifetime disqualification.* A State may reinstate any driver disqualified for life for offenses described in paragraphs (b)(1) through (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 (8) of this section (Table 1 to §383.51) must not be reinstated.

(7) A foreign commercial driver is subject to disqualification under this subpart.

(b) *Disqualification for major offenses.* Table 1 to §383.51 contains a list of the offenses and periods for which a person who is required to have a CLP or CDL is disqualified, depending upon the type of vehicle the driver is operating at the time of the violation, as follows:

**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 CLP or	For a first conviction or refusal to be tested while operating a non-CMV, a CLP or CDL holder must be	For a first conviction or refusal to be tested while operating a CMV transporting hazardous materials as	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this
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	<b>CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *</b>	<b>disqualified from operating a CMV for * * *</b>	<b>defined in §383.5, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *</b>	<b>Table while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *</b>	<b>Table while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV for * * *</b>
(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	1 year	1 year	3 years	Life	Life.

accident * * *					
(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 CLP or CDL is revoked, suspended, or canceled, or the driver is disqualified from operating a CMV	1 year	Not applicable	3 years	Life	Not applicable.
(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	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

manufacturing, distributing, or dispensing a controlled substance * * *					
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(c) *Disqualification for serious traffic violations.* Table 2 to §383.51 contains a list of the offenses and the periods for which a person who is required to have a CLP or CDL is disqualified, depending upon the type of vehicle the driver is operating at the time of the violation, as follows:

**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 CLP or CDL and a CLP or 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 CLP or CDL holder must be disqualified from operating a CMV, if the conviction results in the revocation, cancellation, or suspension of the CLP or CDL holder's license or non-CMV driving privileges, 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 CLP or CDL and a CLP or 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 CLP or CDL holder must be disqualified from operating a CMV, if the conviction results in the revocation, cancellation, or suspension of the CLP or CDL holder's license or non-CMV driving privileges, for * * *
(1) Speeding excessively, involving any speed of 24.1 kmph (15 mph) or more above the regulated or 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 CLP or CDL	60 days	Not applicable	120 days	Not applicable.
(7) Driving a CMV without a CLP or CDL in the driver's possession <sup>1</sup>	60 days	Not applicable	120 days	Not applicable.
(8) Driving a CMV	60 days	Not applicable	120 days	Not applicable.

without the proper class of CLP or CDL and/or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported				
(9) Violating a State or local law or ordinance on motor vehicle traffic control prohibiting texting while driving a CMV. <sup>2</sup>	60 days	Not applicable	120 days	Not applicable.
(10) Violating a State or local law or ordinance on motor vehicle traffic control restricting or prohibiting the use of a hand-held mobile telephone while driving a CMV. <sup>2</sup>	60 days	Not applicable	120 days	Not applicable.

<sup>1</sup>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 CLP or CDL on the date the citation was issued, shall not be guilty of this offense.

<sup>2</sup>*Driving, for the purpose of this disqualification,* means operating a commercial motor vehicle on a highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Driving does not include operating a commercial motor vehicle when the driver has moved the vehicle to the side of, or off, a highway and has halted in a location where the vehicle can safely remain stationary.



(d) *Disqualification for railroad-highway grade crossing offenses.* Table 3 to §383.51 contains a list of the offenses and the periods for which a person who is required to have a CLP or CDL is disqualified, when the driver is operating a CMV at the time of the violation, as follows:

**TABLE 3 TO §383.51**

<b>If the driver is convicted of operating a CMV in violation of a Federal, State or local law because * * *.</b>	<b>For a first conviction a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *</b>	<b>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 CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *</b>	<b>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 CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *</b>
(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.

(e) *Disqualification for violating out-of-service orders.* Table 4 to §383.51 contains a list of the offenses and periods for which a person who is required to have a CLP or CDL is disqualified when the driver is operating a CMV at the time of the violation, as follows:

**TABLE 4 TO §383.51**

<b>If the driver operates a CMV and is convicted of * * *</b>	<b>For a first conviction while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *</b>	<b>For a second conviction in a separate incident within a 10-year period while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *</b>	<b>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 CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *</b>
(1) Violating a driver or vehicle out-of-service order while transporting nonhazardous materials	No less than 180 days or more than 1 year	No less than 2 years 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 as defined in §383.5, or while	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.

operating a vehicle designed to transport 16 or more passengers, including the driver			
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[67 FR 49756, July 31, 2002, as amended at 68 FR 4396, Jan. 29, 2003; 72 FR 36787, July 5, 2007; 75 FR 59134, Sept. 27, 2010; 76 FR 26879, May 9, 2011; 76 FR 75486, Dec. 2, 2011; 77 FR 59825, Oct. 1, 2012; 78 FR 58479, Sept. 24, 2013; 78 FR 60231, Oct. 1, 2013]

**FMCSA CFR §383.73 (g)-(k)**

[https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=&h=L&mc=true&r=PART&n=pt49.5.383#se49.5.383\\_151](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=&h=L&mc=true&r=PART&n=pt49.5.383#se49.5.383_151)

(g) *Social Security Number verification.* (1) Prior to issuing a CLP or a CDL to a person the State must verify the name, date of birth, and Social Security Number provided by the applicant with the information on file with the Social Security Administration. The State is prohibited from issuing, renewing, upgrading, or transferring a CLP or CDL if the Social Security Administration database does not match the applicant-provided data.

(2) *Exception.* A State is only required to perform the Social Security Number verification specified in this paragraph for initial issuance of a CLP, transfer of CDL from another State or for drivers renewing a CDL for the first time after July 8, 2011 who have not previously had their Social Security Number information verified, provided a notation is made on the driver's record confirming that the verification required by this paragraph has been made and noting the date it was done.

(h) *License issuance.* After the State has completed the procedures described in paragraphs (a) through (g) of this section, as applicable, it may issue a CLP or CDL to the driver applicant. The State must notify the operator of the CDLIS of such issuance, transfer, renewal, or upgrade within the 10-day period beginning on the date of license issuance.

(i) *Surrender procedure.* A State may return a surrendered license to a driver after physically marking it so that it cannot be mistaken for a valid document. Simply punching a hole in the expiration date of the document is insufficient. A document perforated with the word "VOID" is considered invalidated.

(j) *Penalties for false information.* If a State determines, in its check of an applicant's license status and record prior to issuing a CLP or CDL, or at any time after the CLP or CDL is issued, that the applicant has falsified information contained in subpart J of this part, in any of the certifications required in §383.71(b) or (g), or in any of the documents required to be submitted by §383.71(h), the State must at a minimum disqualify the person's CLP or CDL or his/her pending application, or disqualify the person from operating a commercial motor vehicle for a period of at least 60 consecutive days.

(k) *Drivers convicted of fraud related to the testing and issuance of a CLP or CDL.* (1) The State must have policies in effect that result, at a minimum, in the disqualification of the CLP or CDL of a person who has been convicted of fraud related to the issuance of that CLP or CDL. The

application of a person so convicted who seeks to renew, transfer, or upgrade the fraudulently obtained CLP or CDL must also, at a minimum, be disqualified. The State must record any such withdrawal in the person's driving record. The person may not reapply for a new CDL for at least 1 year.

### §383.141 General.

(a) *Applicability.* This section applies to State agencies responsible for issuing hazardous materials endorsements for a CDL, and applicants for such endorsements.

(b) *Prohibition.* A State may not issue, renew, upgrade, or transfer a hazardous materials endorsement for a CDL to any individual authorizing that individual to operate a commercial motor vehicle transporting a hazardous material in commerce unless the Transportation Security Administration has determined that the individual does not pose a security risk warranting denial of the endorsement.

(c) *Individual notification.* At least 60 days prior to the expiration date of the CDL or hazardous materials endorsement, a State must notify the holder of a hazardous materials endorsement that the individual must pass a Transportation Security Administration security threat assessment process as part of any application for renewal of the hazardous materials endorsement. The notice must advise a driver that, in order to expedite the security screening process, he or she should file a renewal application as soon as possible, but not later than 30 days before the date of expiration of the endorsement. An individual who does not successfully complete the Transportation Security Administration security threat assessment process referenced in paragraph (b) of this section may not be issued a hazardous materials endorsement.

(d) *Hazardous materials endorsement renewal cycle.* Each State must require that hazardous materials endorsements be renewed every 5 years or less so that individuals are subject to a Transportation Security Administration security screening requirement referenced in paragraph (b) of this section at least every 5 years.

[68 FR 24850, May 5, 2003, as amended at 68 FR 63033, Nov. 7, 2003; 69 FR 51393, Aug. 19, 2004; 70 FR 22271, Apr. 29, 2005; 77 FR 59825, Oct. 1, 2012]