

CHANGE PROPOSAL ACD018 – UPDATE ACD CODE U11 USAGE DESCRIPTION

Date Received: 19 June 2019

Source (Organization/Person): ACD Working Group

1 Description of Trigger or Reason for the Change Proposal

Comments from the different working groups on the scenarios presented for the application of ACD code U11, and the publication of final rule on Lifetime Disqualification for Human Trafficking by the FMCSA prompted the creation of this update to the ACD manual to:

1. Avoid characterizing a human trafficking offense as a different and lesser offense even in a jurisdiction initially unable to enforce the lifetime disqualification of a driver.
2. Update ACD code U11 references to its legal basis.

2 Impact Assessment (Including which entities are impacted)

Entity	Impact
AAMVA	<ul style="list-style-type: none"> • Update the ACD Manual. • Update specifications of systems that use ACD codes to accept ACD code U11 as valid. • Update code logic of systems that use ACD codes to accept ACD code U11 as valid. • Test updated system’s acceptance of ACD code U11 as valid.
Jurisdictions	Update jurisdictional driver system to send/receive the U11 ACD code .

3 Entities to Be Involved in Reviewing the Details of the Change Proposal

FMCSA, ACD WG, AAMVA’s Driver Systems, NHTSA, NDR WG

4 Pros and Cons

Pros	Cons
<ul style="list-style-type: none"> Reconciles usage rules of ACD code U11 in convictions and withdrawals with established rules governing use of ACD codes. Records the true nature of the violation. 	<p>Some jurisdictions may not be able to suspend the driver until legislation is enacted in their state.</p>

5 Detailed Explanation of the Change Proposal

5.1 Changes to the ACD Manual

Location	Current Version	Updated Version
3.1.5 Using Specific ACD Codes	<p>The following sections list procedural rules for using the following specific ACD Codes:</p> <ul style="list-style-type: none"> B19 and B27 (Violating out-of-service orders) ... A90, A91, A94, and A98 (Administrative per se convictions and withdrawals) 	<p>The following sections list procedural rules for using the following specific ACD Codes:</p> <ul style="list-style-type: none"> B19 and B27 (Violating out-of-service orders) ... A90, A91, A94, and A98 (Administrative per se convictions and withdrawals) U11 (Using a CMV in the commission of severe forms of trafficking in persons convictions and withdrawals.)

Change Proposal

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3.1.5.22 Using ACD Code U11	<p>Not all jurisdictions will be able to implement ACD code U11 before appropriate legislation is enacted in their state and/or FMCSA publishes a final rule. To that effect, the following scenarios are presented:</p> <ul style="list-style-type: none"> a. Jurisdiction A (JurA) – Accepts ACD code U11 into their system, but will only be able to enforce it when legislation is enacted in their state. b. Jurisdiction B (JurB) - Does not accept ACD code U11 until legislation is enacted in their state. c. Jurisdiction C (JurC) – Accepts ACD code U11 and is enforcing the lifetime disqualification. 	<p>Not all jurisdictions will be able to take ACD code U11 lifetime disqualification, nor will those jurisdictions be penalized for not doing so, until appropriate legislation is enacted in their state, or FMCSA’s final rule compliance date of September 23, 2022. The following scenarios illustrate the expected behavior of a jurisdiction when receiving an in-state or out-of-state conviction of a driver for using a CMV in the commission of severe forms of trafficking in persons, before the appropriate legislation is enacted or FMCSA’s final rule compliance date of September 23, 2022:</p> <ul style="list-style-type: none"> a. Jurisdiction A (JurA) – May post ACD code U11 electronically into their system, but cannot take the U11 lifetime withdrawal. b. Jurisdiction B (JurB) – May post ACD code U11 to the driver’s record manually, but cannot take the U11 lifetime withdrawal. c. Jurisdiction C (JurC) – May post ACD code U11 electronically or manually into their system, and is able to take the U11 lifetime withdrawal.
3.1.5.22 Using ACD Code U11	<ol style="list-style-type: none"> 1. A driver licensed in JurA is cited for and convicted of human trafficking in JurA <ul style="list-style-type: none"> • JurA posts the human trafficking conviction (U11) to the driver's record. • JurA disqualifies the driver for at least one year, based on the jurisdiction’s existing authority to disqualify for 'Using a motor vehicle in connection with a felony' withdrawal (U03). • JurA waits for legislation to enforce license suspension. • Once JurA passes legislation to enforce U11, JurA will convert the ACD Code used to disqualify the driver for at least one year to a U11. 	<ol style="list-style-type: none"> 1. A driver licensed in JurA is cited for and convicted of human trafficking in JurA <ul style="list-style-type: none"> • JurA posts the human trafficking conviction (U11) to the driver's record. • JurA does not have to take the U11 lifetime withdrawal. <p><i>Note: Some states may be able to take advantage of legal mechanisms that allow them to take a withdrawal for certain offenses retroactively.</i></p>

Change Proposal

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3.1.5.22 Using ACD Code U11	<p>2. Driver licensed in JurB is cited for and convicted of human trafficking in JurA or JurC.</p> <ul style="list-style-type: none"> • JurA or JurC reports conviction U03 to JurB. • JurB posts the reported U3 conviction. • JurB disqualifies the driver for at least one year, based on the jurisdiction's existing authority to disqualify for 'Using a motor vehicle in connection with a felony' withdrawal (U03). 	<p>2. Driver licensed in JurB is cited for and convicted of human trafficking in JurA or JurC.</p> <ul style="list-style-type: none"> • JurA or JurC reports conviction U11 to JurB. • JurB returns an error to the state of conviction (JurA or JurC) rejecting the transaction • JurA or JurC reports conviction U11 by mail to JurB • JurB posts the reported U11 conviction to the driver's record manually, but does not have to take the U11 lifetime withdrawal. <p><i>Note: Some states may be able to take advantage of legal mechanisms that allow them to take a withdrawal for certain offenses retroactively.</i></p>
3.1.5.22 Using ACD Code U11	<p>3. Driver licensed in JurB is cited for and convicted of human trafficking in JurB.</p> <ul style="list-style-type: none"> • JurB posts the 'Using a motor vehicle in connection with a felony' conviction (U03) to the driver's record with additional detail. • JurB disqualifies the driver for at least one year, based on the jurisdiction's existing authority to disqualify for 'Using a motor vehicle in connection with a felony' withdrawal (U03). 	<p>3. Driver licensed in JurB is cited for and convicted of human trafficking in JurB.</p> <ul style="list-style-type: none"> • JurB posts the 'Using a CMV in the commission of severe forms of trafficking in persons.' conviction (U11) to the driver's record. • JurB does not have to take the U11 lifetime withdrawal. <p><i>Note: Some states may be able to take advantage of legal mechanisms that allow them to take a withdrawal for certain offenses retroactively.</i></p>
3.1.5.22 Using ACD Code U11	<p>6. Driver licensed in JurA or JurC is cited for and convicted of human trafficking in JurB.</p> <ul style="list-style-type: none"> • JurB reports a U03 conviction with additional detail to JurA or JurC. • JurA or JurC accepts the reported U03 conviction. • JurA or JurC disqualifies the driver for at least one year, based on the jurisdiction's existing authority to disqualify for 'Using a motor vehicle in connection with a felony' withdrawal (U03). 	<p>6. Driver licensed in JurA or JurC is cited for and convicted of human trafficking in JurB.</p> <ul style="list-style-type: none"> • JurB reports a U11 conviction to JurA or JurC. • JurA posts the U11 conviction to the driver's record, but does not have to take the U11 lifetime withdrawal. • JurC posts the U11 conviction to the driver's record, and disqualifies the driver for life without reinstatement using ACD U11 withdrawal code.

Change Proposal

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3.1.5.22 Using ACD Code U11	Add new paragraphs.	At any time before the compliance date of FMCSA’s final rule on September 23, 2022, if a jurisdiction gets statutory authority to take the lifetime suspension without reinstatement, then that jurisdiction must impose that penalty and nothing less for cases involving an act or practice of severe forms of trafficking in persons in a CMV. On or after the compliance date of September 23, 2022, all jurisdictions must impose the lifetime suspension without reinstatement penalty required by the final rule.
C.1 Table 12 – Major Offenses	FMCSR/49 U.S.C §31310 (d)(2) FMCSR Description/ Using a CMV in the commission of a felony involving severe forms of trafficking in persons as defined in 22 USC 7102(9) ACD Code/U11 ACD Description/ Using a CMV in the commission of severe forms of trafficking in persons.	FMCSR/49 CFR 383.51(b)(10) FMCSR Description/ using the vehicle in the commission of a felony involving an act or practice of severe forms of trafficking in persons, as defined and described in 22 U.S.C. 7102(11). ACD Code/U11 ACD Description/ Using a CMV in the commission of severe forms of trafficking in persons.
E.6.1 Vehicle Use in Prohibited Actions (U codes)	ACD Code/U11 Description/ Using a CMV in the commission of severe forms of trafficking in persons. FMCSR Category/ Major NDR Category/ Notes/ Federal Regulation(s) and Uniform Vehicle Code Model Law(s)/ 49 U.S. Code §31310 (d)(2)	ACD Code/U11 Description/ Using a CMV in the commission of severe forms of trafficking in persons. FMCSR Category/ Major NDR Category/ Notes/ Federal Regulation(s) and Uniform Vehicle Code Model Law(s)/ 49 CFR 383.51(b)(10)

6 Change History

Version	Date	Author	Description
1.0	06/27/2019	T. Bauza	Change proposal created
1.0	06/28/2019	T. Bauza	Change proposal submitted for review to FMCSA.
1.1	07/26/2019	T. Bauza	Updated with internal feedback and references to FMCSA’s final rule.

Change Proposal

Version	Date	Author	Description
1.2	10/18/2019	T. Bauza	Updated according to changes agreed upon during the August 28, 2019 ACD working group conference call meeting (Changes in dark blue).
1.3	10/23/2019	T. Bauza	Approved by Maine & Colorado.
1.4	02/26/2020	T. Bauza	Presented to the ACD WG during the 02/26/2020 conference call. Due date for voting is April 3, 2020. Default vote is 'Approved.'
1.5	03/19/2020	T. Bauza	Updated with comments from FMCSA. Vote on this change proposal is suspended until FMCSA approves the change.
1.6	05/04/2020	T. Bauza	Updated with feedback from FMCSA.
2.0	06/12/2020	T. Bauza	Updated with feedback from FMCSA.
2.1	06/23/2020	T. Bauza	Approved by the ACD WG for inclusion in the next release of the ACD manual.
3.0	07/24/2020	T. Bauza	Updated ACD manual in AuthorIT.