



American Association of
Motor Vehicle Administrators

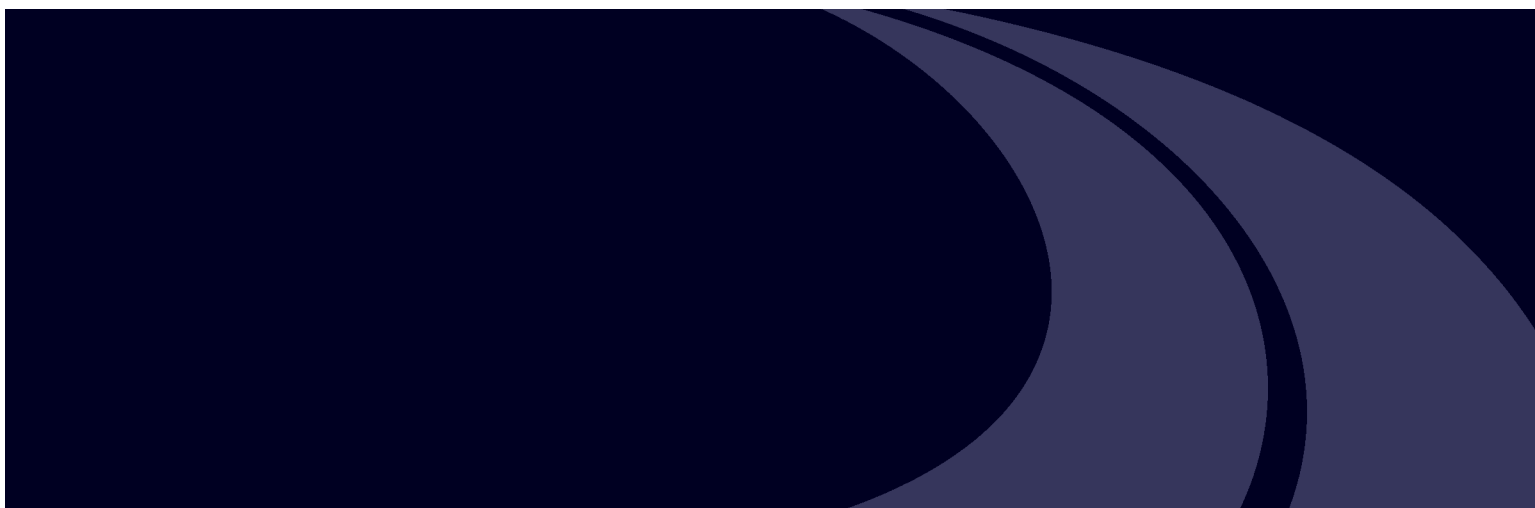
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Felony Convictions and CDL Sanctions Whitepaper



December 2024



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Introduction

The Federal Motor Carrier Safety Administration (FMCSA) promulgates Federal Motor Carrier Safety Regulations (FMCSRs) published in the Code of Federal Regulations, which are then adopted by each of the 50 United States and the District of Columbia. Mastering familiarity with all the relevant regulations poses a challenge for those in the courts and in motor vehicle or driver license administration. This is particularly true for the less common offenses.

This whitepaper serves to bring focus to commercial driver license (CDL)-related violations with which many are unfamiliar, specifically, nondriving offenses that carry mandatory CDL sanctions. In fact, many in the criminal justice system are not aware that offenses

not traditionally associated with driving can impact driver license status.

These crimes may or may not occur during actual movement or driving of a vehicle. However, the seriousness of the crimes and the associated use of a motor vehicle mean that the FMCSA mandates CDL sanctions. By providing information on these violations, the American Association of Motor Vehicle Administrators (AAMVA) seeks to support its members in the oversight of CDL holders. Applying mandatory sanctions for criminal activity will help to separate CDL privileges from dangerous individuals who may operate vehicles unsafely on the nation's roadways.

Executive Summary

This paper has been prepared by AAMVA. AAMVA previously published the *CDL Driver History Record Best Practices Guide* to support the issuance, adjudication, reporting, and recording of CDL violations. That guide served as a general resource for stakeholders at every point along the CDL violation process.

This whitepaper is intended as an additional resource to clarify and provide additional information on the important topic of felony offenses and CDL sanctions. The whitepaper does not state policy or offer recommendations, instead detailing regulations and explaining how they relate to jurisdiction member administration of CDLs.

The contents include the following topics and sections:

- **Background** of the issue, explaining the relevant FMCSA regulations and their purposes and scope. This discussion touches on CDL violation sanctions and the broad definition of convictions, which in an FMCSR context can extend well beyond the common usage of the term to include dismissals on court costs and bond forfeitures.
- **Major violations** are explained as they are defined with the FMCSRs, detailing the types of CDL violations and their accompanying minimum mandatory sanctions. This explanation also lays out the types of felony offenses (from sale of controlled substances to violent offenses to human trafficking) that can carry mandatory CDL sanctions. The discussion touches on the unfamiliarity many have with these nontraditional traffic offenses that nonetheless carry CDL sanctions.

- **Masking** is defined and explained. The discussion explores the importances of reporting every CDL-related violation in a timely manner. Although this means avoiding practices such as diversion for traditional traffic offenses, such as impaired driving, it also means that felony offenses that may not involve traffic violations, such as violent felonies or human trafficking, must still be reported using normal CDL reporting practices to avoid masking, which is an important part of compliance with FMCSA regulations.

- **Role of State Driver Licensing Authorities** offers a discussion of how state agencies use procedures to process and report all CDL violations. This means that felony offenses by CDL holders that involve a motor vehicle (whether driving is involved or the crime is tied to a vehicle code) may need to be reported on the Commercial Driver License Information System (CDLIS). These felony convictions can be handled like traditional traffic offenses. States already have the necessary procedures in place. The jurisdiction can work with courts to make sure it has the necessary information regarding the underlying offense and AAMVA Code Dictionary (ACD) code, which can be particularly helpful for out-of-state convictions. States may choose to work with courts and prosecutors on information sharing and training (resources group sites provided).

This document serves as a resource to help jurisdictions comply with FMCSR reporting requirements and consider whether all CDL-related convictions, even nontraditional felony offenses (even those not obviously related to traffic codes), are being included on driving histories and reported accurately and in a timely manner.

Chapter 1 Background

Commercial drivers serve a vital function, delivering essential goods and supplies throughout North America. However, the size of many commercial vehicles and the hazardous loads they sometimes carry mean these drivers must operate safely and responsibly. The FMCSA helps to keep U.S. roadways safe through various regulations and oversight activities. The FMCSA works with state licensing authorities to identify and sanction unsafe driving behavior as well as other criminal behaviors that have overarching safety implications. Federal regulations offer guidance on which violations and crimes should carry CDL disqualifying sanctions.

These regulations are published in FMCSRs. Title 49 of the Code of Federal Regulations addresses employer, driver, and state responsibilities. The FMCSRs promulgated by the FMCSA establish standards of commercial driver license governance.

Compliance

Although the FMCSA issues FMCSRs, the states control the issuance and management of CDLs. To encourage states to adopt promulgated FMCSRs, federal highway funding has been tied to compliance. For instance, 49 CFR § 384.401, Withholding of Funds Based on Noncompliance, explains the potential result. The section specifies that up to 4 percent of federal highway funding may be withheld following the first year of noncompliance. Following a second year of noncompliance, up to 8 percent may be withheld. These percentages represent a significant amount of overall funding for a state.

Minimum Mandatory Sanctions

Certain FMCSRs mandate specific CDL sanctions for convictions of specific violations. These sanctions are the minimum CDL sanctions required by the federal language. The minimum sanctions for major offenses are detailed in 49 CFR § 383.51, Table 1. The sanctions range from a 1-year disqualification for a first major offense conviction (which becomes 3 years for a first offense if the offense occurred while an individual was while operating a commercial motor vehicle [CMV] transporting hazardous materials as defined in 49 CFR § 383.5) to lifetime CDL disqualification for a second major offense conviction. States may permit an individual to apply for reinstatement after 10 years if “that person has voluntarily entered and successfully completed an appropriate rehabilitation program approved by the state.” In certain circumstances, a felony conviction involving drugs or human trafficking can trigger an automatic lifetime CDL disqualification.

Convictions

Most traffic safety stakeholders have a general idea of the meaning of a conviction. However, conviction within the context of Title 49 of the Code of Federal Regulations has a different and much wider meaning. Conviction is defined in 49 CFR 383.50 as follows:

Conviction means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized

administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of

whether or not the penalty is rebated, suspended, or probated.

This much broader definition means many court actions might result in a conviction within the context of the FMCSR that would not be considered a conviction for other state meanings.

Chapter 2 Major Violations

CDL-related violations may fall into various categories, described in 49 CFR 383.51, such as serious offenses or railroad-highway grade crossing offenses. However, the most serious category of offense is major violations. Specific major violations and their attendant sanctions can be found in 49 CFR 383.51, Table 1. Examples of major violations include impaired driving and leaving the scene of an accident. The offenses, often referred to as traffic offenses or traffic crimes, always involve the operation of a motor vehicle and generally are well understood to have potential impact on CDL status.

However, other major offenses that carry mandatory sanctions need not necessarily involve driving. These offenses fall within three types of felony crime. As major violations, the FMCSRs require a mandatory sanction for each violation that occurs while the offender holds (or should have held based on vehicle type) a CDL. Specific major violations and their corresponding sanctions can be found in 49 CFR 383.51, Table 1.

Using a Vehicle to Commit a Felony (49 CFR 383.51, Table 1 (6))

The list of major offenses in Table 1 includes a catch-all. In addition to the specified offense in the table, it is a major offense for a CDL holder to use a vehicle, whether commercial or noncommercial, to commit a felony crime. This potentially encompasses a broad array of criminal conduct, including the following:

- Kidnapping
- Aggravated assault
- Selling stolen goods
- Burglary
- Sexual assault
- Evading arrest
- Human smuggling

As long as a CDL or commercial learner's permit (CLP) holder uses a vehicle in the commission of a felony, the crime may constitute a major violation. Some felonies involve a moving vehicle, and some do not. Simply using a vehicle as the site of the crime or to facilitate the crime may be sufficient based on the broad language of 49 CFR 383.51. The important fact to consider is whether a vehicle was used to commit the felony.

For the conviction for a major offense in Table 1, the minimum sanction is a 1-year (3-year if hazardous materials are being transported) disqualification from operating a CMV. The FMCSRs are silent regarding the base driver license privilege and only mandate action on the commercial privilege. For second or subsequent major offense convictions, the sanction increases to indefinite disqualification with a path toward a CDL available given certain circumstances after 10 years.

Using a Vehicle to Commit a Controlled Substance Felony (49 CFR 383, 51, Table 1 (9))

It is also a major violation to use a commercial or noncommercial vehicle in the commission of a felony involving the manufacturing, distributing, or dispensing of a controlled substance. This language is very broad and could encompass a host of criminal activity, including the following:

- Selling controlled substances
- Transporting controlled substances to a place of sale
- Transporting components of controlled substances to a place of manufacture
- Storing controlled substances intended for sale

The court will consider the role of a vehicle in the underlying felony offense.

Although the FMCSR specifies “use,” it does not state that a vehicle needs to be operated or driven. “Controlled substance” is defined in 49 CFR 383.5 as “all substances listed on schedules I through V of 21 CFR 1308 (§§ 1308.11 through 1308.15), as they may be amended by the United States Department of Justice.” States have various laws prohibiting the sale of controlled substances. If an individual who holds a CDL commits such an offense that is a felony while using a vehicle, the mandatory sanction may apply.

This major violation carries more severe mandatory CDL sanctions. Per 49 CFR 383.51, Table 1, a first or single conviction related to using a vehicle (commercial or noncommercial) will result in a lifetime CDL disqualification. Per the FMCSRs, a state may not permit an individual convicted for these drug-involved felonies to receive a CDL even if the individual has attended treatment or 10 years has elapsed.

Using a Commercial Motor Vehicle to Commit Human Trafficking (49 CFR 383, 51, Table 1(10))

The most recent addition to the list of major offenses involves human trafficking. The U.S. Department of Transportation is engaging in concerted efforts to combat human trafficking. The FMCSA has [resources](#) related to its own anti-human trafficking work. In 2019, the FMCSA announced a new rule requiring CDL disqualification: If an individual uses a CMV in the commission of a felony involving an act or practice of severe forms of trafficking in persons, this is a major violation.

This major violation is specific in two unique ways (that do not apply to other major violations). First, the FMCSR specifies that only use of a CMV in the commission of the felony will meet the requirements. Second, the human trafficking offense is specified as being “severe forms of trafficking in persons” as defined and described in 22 U.S.C. 7102(11)) as follows:

The term “severe forms of trafficking in persons” means—

- (A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

If an individual is convicted of an offense consistent with this language and that involved the use of a CMV, this is a major violation, which also carries an automatic lifetime CDL disqualification.

In many criminal cases, an individual may be convicted of a reduced charge or lesser included offense. This may include facilitation of human trafficking or attempted human trafficking. Human smuggling, usually consensual, is not the same as human trafficking. Human trafficking does not require transportation of victims. Although all of these offenses may be felonies, they do not require the application of the lifetime CDL disqualification. However, as discussed earlier, any felony using any vehicle carries at least a 1-year disqualification period (for a first offense).

Consecutive Disqualifications

At times an individual may have convictions arising from separate incidents (typically on different dates) or have a preexisting period of disqualification. When a licensing authority imposes a disqualification period, it considers whether the disqualification period will run consecutively or concurrently with any other period of disqualification. For offenses that fall into a category described within 49 CFR 383.51, any disqualification period will be in addition or consecutive to any other previous period of disqualification per 49 CFR §383.51(a)(5).

Chapter 3 Masking

The FMCSRs also address the practice of masking or keeping specific convictions from appearing on a CDL holder's driver history record. The prohibition against masking is consistent with the FMCSA's policy of one driver, one record.

Masking Defined

More than 2 decades ago, the U.S. government instituted measures to reduce CMV-involved crashes and improve road safety. The Motor Carrier Safety Improvement Act (MCSIA) established the FMCSA. In addition, the MCSIA (49 U.S. Code § 31311 - Requirements for State Participation) includes language detailing the responsibilities of states in the administration of CDLs so that states can "avoid having amounts withheld from apportionment" (49 U.S. Code § 31314 - Withholding Amounts for State Noncompliance). The MCSIA specifies that if an individual is "found to have committed" a "state or local law on motor vehicle traffic control (except a parking violation)," this information must not be "withheld or masked in any way from the record of an individual possessing a commercial driver's license." The rule against masking is meant to ensure safety relevant behavior appears on commercial driver history records.

Today masking avoidance is part of compliance with the FMCSRs. This federal regulation appears in 49 CFR § 384.226, Prohibition Against Masking, which states:

The State must not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a CLP or CDL holder's conviction for any violation, in any type of motor vehicle, of a State or local traffic control law (other than parking, vehicle weight,

or vehicle defect violations) from appearing on the CDLIS driver record, whether the driver was convicted for an offense committed in the State where the driver is licensed or another State.

Note that the FMCSR expands the anti-masking language in the MCSIA, requiring states to report information not just on violations which an individual is "found to have committed" but also on convictions. As covered earlier in this paper, conviction within the FMCSR context can include not just findings of guilt but also admissions of guilt, pleas of no contest, or even forfeiture of bail. This broad requirement for state entities encourages courts and licensing authorities to create the most accurate driver history.

Masking Applied

Every state (and the District of Columbia) has adopted the masking prohibition either by reference or through direct language in state law. Masking prohibition is part of an overall safety strategy intended to support appropriate enforcement action being taken against unsafe CDL holders.

Although some minor differences in anti-masking statutes may exist among states, the core language is the same. For instance, masking avoidance means keeping CDL holders out of diversion programs or otherwise deferring imposition of judgment. In fact, any payment of fees or fines may be considered a conviction under the FMCSRs, meaning even a dismissed citation might need to be reported on a CDL holder's driver history record.

States may have a variety of diversion programs available to offenders. Some states allow individuals with pending charges to enter diversion programs

that will keep a final conviction from appearing on a permanent criminal or driver history records. Others may allow individuals who successfully complete probationary periods to apply for expungement of the conviction. In either case, if the result is a conviction being kept off the driver history record, this can be considered masking.

Federal anti-masking prohibitions can apply to any case or citation if the underlying offense occurred while the offender held a CDL privilege or if the offense occurred with a vehicle that requires a commercial driving privilege for lawful operation. Some CDL holders may surrender their CDLs after receiving a citation or criminal charge in an attempt to avoid anti-masking prohibitions or even mandatory sanctions. However, the relevant status for FMCSR compliance is the CDL or CLP status of the individual at the time of the offense. If the individual held (or should have held) a CDL or CLP when the offense occurred, anti-masking prohibitions apply, so the state will not allow diversion programs or otherwise prevent a conviction for violating a traffic control law from appearing on a CDL holder's driving record.

Masking Implications

State driver licensing authorities rely on the accuracy and completeness of CDL driver history records

when making decisions regarding issuance and renewal of CDL privileges. If convictions are masked, these authorities are making decisions without all the necessary information. Similarly, police, prosecutors, and judges may all rely on CDL driver history records. The purpose of the anti-masking rule, according to the first edition of the National District Attorneys Associations' (NDAA's) National Traffic Law Center publication *Commercial Drivers' Licenses: A Prosecutor's Guide to the Basics of Commercial Motor Vehicle Licensing and Violations*, is "to ensure that licensing authorities have an accurate picture of a CDL holder's driving history." An accurate history allows not only minimum mandatory sanctions for the first offense to be applied but also increased penalties for multiple violations. The NDAA guide makes clear that "the only tool courts and prosecutors have to determine how serious a driver's pattern of traffic violations has been is the official driver's history. If that history is artificially preserved one time, or over and over again, the next prosecutor or judge has no way to know."

Masking avoidance both ensures state compliance with FMCSA's regulations and that the right information is available to courts and licensing authorities. This in turn supports the proper oversight of commercial drivers and helps prevent unsafe CMV operation.

Chapter 4 Role of State Driver Licensing Authorities

Accurately imposing mandated sanctions on CDL holders who use motor vehicles in the commission of felonies requires multiple stakeholders working cooperatively. Law enforcement, prosecutors, judges, court clerks, and state licensing authorities all play a part. Police officers note a defendant's CDL status on citations or arrest reports. Prosecutors present evidence relating to use of a vehicle and an offender's CDL status in addition to the elements of whatever crime is charged. Judges do not allow diversion for CDL holders but do ensure that findings related to vehicle use and CDL status are made. Clerks record all relevant information about the charges, conviction, CDL status, and identity of the offender. Ultimately, however, the licensing authority creates the driver history record on which all of these stakeholders rely.

The licensing authority recognizes major violations and applies appropriate sanctions. State licensing authorities process major violation convictions for non-driving-related crimes just as they would for any other major violation. The CDLIS platform enables state driver licensing agencies to ensure one commercial driver has a single, complete driver history record.

Whether a major offense is committed in the CDL holder's home or domicile state or in another state, CDLIS helps licensing authorities share information on dangerous behavior. For all major violations in 49 CFR 383.51, Table 1, state license authorities have responsibilities regarding timely and accurate reporting, recording, and sanctioning. These responsibilities do not change based on the nature of the violation. All 50 states and the District of Columbia, whether the state of record (SOR) or state that licensed the driver, exercise informed control over the CDL privilege.

Commercial Driver License Information System

States use CDLIS to complete CDL procedures such as transmitting out-of-state convictions and withdrawals. Even if the violation does not specifically involve driving or fall within the state vehicle code, all major violations are reportable and sanctionable pursuant to the FMCSRs. Each state (and the District of Columbia) uses CDLIS and other platforms to exchange information about CDL drivers, traffic convictions, and disqualifications.

Handling Major Violation Convictions

Licensing authorities have established procedures to manage convictions for CDL holders. These can be followed for all major violations. After a notice of conviction is received, either from a court or state of conviction (SOC), the normal procedures can be followed.

As the licensing authority reviews the conviction, it will note the requisite identifying information. This includes the CDL holder's name, date of birth, and driver license number. If the conviction pertains to a CDL holder, the licensing authority is alerted that mandatory reporting and sanctioning provisions within the FMCSRs may apply.

The licensing authority also looks at the nature of the offense. The court should transmit the conviction with the appropriate case number or court reporting ID information. In addition, there should be sufficient accompanying information about the date of the offense and conviction, statute of conviction, and court findings for the licensing authority to determine if the offense is a major violation and what kind of vehicle was involved. This determining of the

facts of the case and what crimes were committed is the job of the court. Licensing authorities can always reach out to the court of conviction or SOC for more or clarifying information. For each conviction received, the licensing authority can check for three critical data points: the driver's CDL status at the time of the offense, the type of vehicle involved in the offense, and whether hazardous materials were being transported. Checking this information helps the licensing authority apply the correct period of disqualification.

ACD Codes

Each offense has a corresponding ACD code as specified in AAMVA's [ACD Code Manual](#) (available to AAMVA jurisdiction members). Convictions received by the licensing authority have an attached ACD code. The ACD code ensures consistency when states are transmitting conviction information between states (where statutory language or code references vary), serving as a universal language to convey conviction information.

Each category of major violation has its own ACD code as described in Table 12, Major Offenses, of the ACD Code Manual, including:

- Using a vehicle to commit felony (not a traffic offense) from 49 CFR 383.51(b)(6) is translated into U03, using a motor vehicle in connection with a felony (not traffic offense).
- Using a vehicle in commission of a felony involving manufacturing, distributing, or dispensing a controlled substance from 49 CFR 383.51(b)(9) translates into A50, motor vehicle used in commission of a felony involving manufacturing, distributing, or dispensing a controlled substance.
- Using a commercial 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), is translated into U11, using a CMV in the commission of severe forms of trafficking in persons.

Offenders from Other States

If a licensing authority receives a major violation conviction for an individual who holds a CDL issued by another state, it can handle major violations, such as impaired driving, the same as a major violation involving controlled substance distribution. The conviction can be posted, like any traffic control law offense, on the driver history record (a subset of the CDLIS information system). The SOC can transmit the notice of conviction on to the SOR, which holds the CDL privilege.

Another FMCSR, 49 CFR §384.225(c), requires the SOR to post and confirm the posting of this report of a conviction or withdrawal within 10 days after receiving the conviction. The licensing authority in the SOR then imposes the appropriate mandatory disqualification based on the violation and any previous major violations by the CDL holder.

Educating Stakeholders

Prosecutors and judges handling crimes such as drug sales or human trafficking may not be frequently involved in the adjudication of traffic-related crimes. Therefore, they may be unaware of the CDL implications of certain convictions for a defendant who holds a CDL. This lack of awareness increases the risk of masking and the likelihood that mandatory sanctions will not be applied.

If a state licensing authority rarely sees convictions that would fall under the three categories of major offense described in this paper, it may be an indication that courts are not sending all major violations for CDL holders. This may be due to a lack of awareness of a defendant's CDL status or not having information about the FMCSR-mandated sanctions. This could be an opportunity for a licensing authority to educate

fellow safety stakeholders. Similarly, if the licensing authority encounters a CDL conviction that should have been reported to the authority as a major violation for a CDL holder, it may be an opportunity to share information.

Many resources exist to support stakeholders in various roles in the correct adjudication of CDL holders. [AAMVA](#) offers many resources and has subject matter experts ready to assist licensing authorities with any questions. Other nonprofit organizations that offer resources tailored to specific roles include:

- For judges, the [National Center for State Courts](#) and [National Judicial College](#)
- For prosecutors and law enforcement, the [National Traffic Law Center](#) and each state's resident traffic law expert or [Traffic Safety Resource Prosecutor](#)

Sharing information about major violations and what information is necessary for their timely and accurate reporting, recording, and sanctioning can help licensing authorities get what they need from the courts.

Conclusion

This whitepaper is meant to support AAMVA members engaged in the processing, reporting, transmitting, and sanctioning of all CDL-related violations, even those not associated with familiar traffic- or driving-based offenses. Because CDL violations are most often related to driving offenses, it is easy to miss a major violation that may involve no driving or fall outside the traffic code of a given state. However, the FMCSRs give a much broader scope of what may constitute a major violation. From human trafficking to kidnapping, if a vehicle is used to commit a felony, federal regulations mandate CDL holders being held to account and sanctioned accordingly.

This resource is just one of the many resources available through AAMVA and other safety stakeholders. As licensing authorities become more familiar with the different types of major violations, they can better communicate to courts how to send notices of conviction that provide all required information regarding the offender and offense. This will ultimately create better and more accurate CDL driver history records, allowing oversight agencies to keep safe drivers on the road and remove unsafe CDL holders in accordance with federal and state regulations.

OUR VISION

Safe drivers

Safe vehicles

Secure identities

Saving lives!



**American Association of
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4401 Wilson Blvd, Suite 700
Arlington, Virginia 22203
703.522.4200 | aamva.org