With Thanks to:
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COMMERCIAL DRIVER LICENSE (CDL)

Presented by:
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COMMERCIAL DRIVER LICENSE

Commercial Drivers License

- Commercial Motor Vehicle Safety Act
  - Enacted in 1986 by US Congress
  - Made it illegal to possess more than one license
  - Required States to adopt knowledge and skills testing for CDL holders
  - Established minimum licensing standards and information requirements for CDL’s that States issue

Texas CDL

BUT...

- The act did not require a driver to obtain a separate federal license; rather required states upgrade, if necessary to conform to minimum federal standards
- Texas did not adopt 49 CFR Part 383 – CDL setting forth these standards, but enacted its own CDL Act
- 1995 the Texas CDL Act was placed in Chapter 522 of the Texas Transportation Code
- Last major revision effective 2005
B. Motor Carrier Safety Improvement Act (MCSIA) of 1999:

1. FMCSA may prohibit a state from issuing, renewing, transferring, or upgrading CDLs if the agency determined the state is in substantial noncompliance with CDL licensing and sanctioning requirements.

2. Requires the U. S. Department of Transportation to withhold Motor Carrier Safety Assistance Program grant funds from the states if they do not comply with the regulation.

Motor Carrier Safety Assistance Program

- 49 CFR PART 350 SETS UP MCSAP
- ENSURE FMCSA AND STATES WORK TOGETHER
- REDUCE ACCIDENTS WITH CMVS

What Parts of 49 CFR Apply?

- 49 CFR 40 – PROCEDURES FOR WORKPLACE DRUG AND ALCOHOL TESTING
- 49 CFR 380 – SPECIAL TRAINING REQUIREMENTS
- 49 CFR 382 – CONTROLLED SUBSTANCE & ALCOHOL USE AND TESTING
- 49 CFR 385 – SAFETY FITNESS PROCEDURES
- 49 CFR 386 – RULES OF PRACTICE
- 49 CFR 387 – MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY
What Parts of 49 CFR Apply?

(continued)

- §390 – GENERAL REQUIREMENTS
- §391 – QUALIFICATIONS OF DRIVERS
- §392 – DRIVING OF COMMERCIAL MVs
- §393 – PARTS & ACCESSORIES
- §395 – HOURS OF SERVICE
- §396 – INSPECTION, REPAIR AND MAINTENANCE
- §397 – TRANSPORT HAZ MAT DRIVING & PARKING RULES

How To Qualify?

- STATES MUST ADOPT RULES AND REGULATIONS COMPATIBLE WITH FMCSR
  - COMPATIBLE = IDENTICAL FOR INTERSTATE COMMERCE
  - COMPATIBLE = IDENTICAL OR WITHIN TOLERANCE GUIDELINES INTRASTATE

WHAT’S IN IT FOR TEXAS?

- MCSAP basic funding FY 2013: $7,680,504
COMMERCIAL DRIVER LICENSE (CDL)

Commercial Motor Vehicle Definition:

- Commercial motor vehicle - means a motor vehicle or combination of motor vehicles used to transport passengers or property that:
  
  (A) has a gross combination weight or a gross combination weight rating of 26,001 or more pounds, including a towed unit with a gross vehicle weight or a gross vehicle weight rating of more than 10,000 pounds;

(continued)

- (B) has a gross vehicle weight or a gross vehicle weight rating of 26,001 or more pounds;

- (C) is designed to transport 16 or more passengers, including the driver; or

- (D) is transporting hazardous materials and is required to be placarded under 49 C.F.R. Part 172, Subpart F.
Weight Rating: Two Types

- **(G.V.W.R.)**
  Gross Vehicle Weight Rating

- **(G.C.W.R)**
  Gross Combination Weight Rating

What is a Weight Rating?

Texas Transportation Code defines Weight Rating as:

Gross Vehicle Weight Rating (G.V.W.R.)

- Means the value specified by the manufacturer as the loaded weight of a single vehicle.
Gross Combination Weight Rating (G.C.W.R.)

- Means the value specified by the manufacturer as the loaded weight of a combination or articulated vehicle or, if the manufacturer has not specified a value, the sum of the gross vehicle weight rating of the power unit and the total weight of the towed unit or units and any load on a towed unit.

Example of G.V.W.R. - Location

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“If the GVWR or GCWR cannot be determined, then the registered gross weight or the actual gross weight of the vehicle(s), whichever is greater, can be used for enforcement purposes in determining CDL requirements.”

Types of Commercial Driver Licenses
TRC 522.041 & TAC 16.4

• Class A
• Class B
• Class C

CDL Exemptions
TRC 522.004

• Farm Vehicles
• Firefighting or Emergency Vehicles
• Military Vehicles
• Recreational Vehicles
CDL EXEMPTIONS (continued)

- Vehicles operating on airport premises
- C.M.V.s operating on private property
- Off-road construction equipment
- Seed cotton modules or cotton burrs

CDL ENDORSEMENTS

- T - double / triple trailer endorsement
- P - passenger vehicle endorsement
- N - tank vehicle endorsement
- H - hazardous material endorsement
- X - combination of N & H endorsements
- * S - School Bus Endorsement

CLASS A

- Combination of vehicles with a G.C.W.R. of 26,001 pounds or more.
- Provided the G.V.W.R. of vehicle(s) being towed exceeds 10,000 pounds
CLASS B

- Single vehicle with a G.V.W.R. of 26,001 pounds or more

- Towed vehicle does not exceed G.V.W.R. of 10,000 pounds

- Vehicle designed to transport 24 passengers or more, including the driver
CLASS C

- Designed to transport 16 or more passengers but less than 24 passengers, including the driver

- Used in transportation of hazardous materials that require the vehicle to be placarded
What Do I Need?
What Do I Need?

Class C DL

GVWR 10,000 lbs

Class A CDL

GVWR 20,000 lbs

What Do I Need?
What Do I Need?

**Farmer**
- GVWR 10,000 lbs
- GVWR 20,000 lbs
- Class C DL

What Do I Need?
- GVWR 3,000
- GVWR 23,500
- Class C DL

What Do I Need?
- Class A DL
- GVWR 15,000
- GVWR 30,000
What Do I Need?

Class B DL
GVWR 45,000

Class A CDL  X Endorsement
GVWR 75,000  GVWR 50,000

Class B CDL
GVWR 62,000
What Do I Need?

GVWR 76,950  Class B CDL

What Do I Need?

Design Capacity 48  P Endorsement

Class B CDL

What Do I Need?

GVWR 47,500  Class B DL
II. What is “masking”

49 C.F.R. §384.226:

(1) The state must not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a conviction from appearing on a CDL driver’s record (no matter where he is licensed) for any state or local traffic violation in any type of motor vehicle.
(2) "Masking" can only occur in the trial courts of original jurisdiction and there first must be a judgment of guilt.

B. Texas Law: No Definition But See
   • CCP 45.051 (f) and 45.0511 (s)

Application to Municipal & Justice Courts

1. Commercial vehicles v. Personal vehicles;

2. Prohibited from taking DSC (driving safety course); and

3. Prohibited from taking deferred disposition.

What the “Show me State” can show Texas

A. The Missouri Department of Revenue submitted questions regarding the masking provisions to the Federal Motor Carrier Safety Administration.

B. On March 20, 2006, the following scenarios were addressed and responses published. These responses give states much greater insight into what actions are considered illegal.
Scenario #1

CDL holder is issued a traffic citation for DWI in his private vehicle. Prosecutor reviews the records and determines that there is a problem with the evidence and **decides not to prosecute the case, so no charges are filed with the court.** No conviction entered.

Response FMCSA #1

No violation of 49 CFR §383/384. The federal CDL regulations require a conviction as defined by §383.5. In this case, the evidence did not support the burden of proof to be properly adjudicated by the prosecutor and there were no excepted actions taken to otherwise circumvent the regulations (i.e., no masking or diversion of the offense or penalty).

Scenario #2

CMV operator is issued a traffic citation for “Careless and Imprudent” driving. Prosecutor files charges for “Careless and Imprudent” driving. Case goes to trial and contrary evidence is presented by operator to show he was not driving in a careless and imprudent manner and court ultimately dismisses the case.
No violation of 49 CFR §383/384. Again the federal regulations require a conviction and in this case the court found flawed or lacking evidence to convict the driver on the offense cited. There was no excepted actions taken by the court to otherwise circumvent the regulations (i.e., no masking or diversion of the offense or penalty). Ultimately, the driver in this case received his/her day in court and prevailed.

CMV operator issued a traffic citation for “Improper Lane Change in a CMV.” Prior to the citation being filed with the court the prosecutor determines to only file the charge as a “defective muffler.” Final conviction is for “defective muffler” and that is the only charge ever signed by the prosecutor or filed with the court.

This practice is not in violation of 49 §CFR 384.226 because the violation was reduced before a judgment of guilt was pronounced. Before we can apply the conditions in 49 §CFR 384.226 to determine whether masking has taken place, there has to be a judgment of guilt (conviction) for a violation. The masking provision in 49 §384.226 does not prevent plea bargaining from taking place.
Situation #4

CDL holder is issued a traffic citation for “Excessive Speed” in a private vehicle (speeding 75 mph in 60 mph zone). After original charge is filed with court, prosecutor amends original charge to “Speeding 65 mph in a 60 mph zone.” Final conviction is for Speeding 65 mph in a 60 mph zone.

Response FMCSA #4

This practice is NOT a violation of 49 §CFR 384.226 because this violation was reduced before a judgment of guilt was pronounced. Before we can apply the conditions in 49 §CFR 384.226 to determine whether masking has taken place, there has to be a judgment of guilt (conviction) for a violation. 

Again, the masking provision does not prevent plea bargaining from taking place.

Scenario #5

CMV operator is issued a traffic violation citation for “Operating a Commercial Motor Vehicle while suspended or revoked.” Prosecutor files charges accordingly. Final conviction is for “Operating CMV while license suspended or revoked. Later, court allows attorney for CMV operator to withdraw his original plea, the conviction is vacated, and after new court hearing, court ultimately enters a conviction for “Improper CDL Class/ Endorsement.”
This is not in violation of 49 CFR §384.226 because the court vacated the original conviction. By granting the attorney’s request to vacate the original plea and conviction, the court nullified the original conviction for “Driving a Commercial Vehicle While License Suspended.”

The definition of “conviction” in 49 CFR §383.5 defines a conviction to mean “an un-vacated [FINAL] adjudication of guilt.”

In this situation, the conviction was not masked or changed or hidden—it was a new trial and new conviction.

C. Top 8 Concepts – Motor Carrier Safety Act of 005:

1. The Motor Carrier Safety Improvement Act (MCSIA) prohibits “MASKING,” “DEFERRAL” OR “DIVERSION” by trial courts;

2. Masking, Deferral or Diversion can only occur in a trial court of original jurisdiction;

Top 8 Concepts – Motor Carrier Safety Act of 2005 (continued)

3. Prohibited actions of Masking, Deferral or Diversion occur if a trial court:
   ◊ Holds, hides, or fails to report a final judgment to the state (TX DPS);
   ◊ Changes the conviction on a moving violation to non-moving violation;
   ◊ Grants DSC to dismiss a charge;
   ◊ Grants Deferred Disposition to dismiss a charge.
4. A court granting a prosecutor’s “Motion to Dismiss” a charge against a CDL driver is NOT prohibited under the Motor Carrier Safety Improvement Act (MCSIA);

5. A court’s decision to acquit a CDL driver after a trial is NOT prohibited under MCSIA;

6. A prosecutor’s decision to not pursue a charge against a CDL driver is NOT prohibited under MCSIA;

7. A prosecutor’s decision to reduce a charge or pursue a different charge against a CDL driver is not prohibited under the MCSIA; and

8. Legal and Ethical are NOT the same!
TRC Sec. 522.041
COMMERCIAL DRIVER’S LICENSE

Is the vehicle a combination vehicle?
  NO  
  YES  

Is the combination GVWR greater than or equal to 26,001 lbs?
  NO  
  YES  

Is the tractor(s) GVWR greater than 10,000 lbs?
  NO  
  YES  

CLASS (A) CDL REQUIRED

Is The GVWR of the power unit 26,001 lbs or greater?
  NO  
  YES  

Is the GVWR of the trailer 10,000 lbs or less?
  YES  
  NO  

CLASS (B) CDL REQUIRED

Is the vehicle designed to transport 24 or more passengers including the driver?

Is the vehicle transporting a quantity of hazardous materials that require placards as defined in 49 C.F.R. Part 172, Subpart F?
  YES  
  NO  

Is the vehicle designed to transport 16-23 passengers including the driver?
  YES  
  NO  

CLASS (C) CDL REQUIRED

CDL NOT REQUIRED

* REMINDER: THERE ARE EXEMPTIONS TO TEXAS CDL FOUND IN TRC SEC. 522.004
** NOTE: IF THE GVWR CANNOT BE DETERMINED, THEN THE GROSS REGISTERED WEIGHT OR THE GROSS ACTUAL WEIGHT, WHICH EVER IS GREATER MAY BE USED FOR CDL REQUIREMENTS.
PERSON'S EXEMPTED FROM TEXAS CDL (EXCEPT FARMERS)

CLASSIFICATION OF DRIVER'S LICENSE (NON-CDL) TRC 521.081 - 521-082 - 521.083

1. Is the vehicle a combination vehicle?
   - Yes
     - Is the combination GVWR 26,001 lbs. or greater?
       - No
         - Is the GVWR of the power unit 26,001 lbs or greater?
           - No
             - Is the vehicle a bus with a seating capacity of 24 passengers or more?
               - Yes
                 - CLASS A DRIVER'S LICENSE REQUIRED
               - No
                 - Is the GVWR of the trailer 10,000 lbs or less?
                   - Yes
                     - CLASS B DRIVER'S LICENSE REQUIRED
                   - No
                     - CLASS C DRIVER'S LICENSE REQUIRED
   - No
     - Is the GVWR of the power unit 26,001 lbs or greater?
       - Yes
         - CLASS A DRIVER'S LICENSE REQUIRED
       - No
         - Is the trailer(s) GVWR greater than 10,000 lbs?
           - Yes
             - CLASS A DRIVER'S LICENSE REQUIRED
           - No
             - CLASS C DRIVER'S LICENSE REQUIRED

NOTE: If the GVWR cannot be determined, then the registered gross weight of the actual gross weight, whichever is greater, can be used for enforcement purposes.
TEXAS DRIVER'S LICENSE REQUIREMENTS FOR FARMERS

Texas Administrative Code 16.3 states a person operating a vehicle that is controlled and operated by a farmer which is used to transport agricultural products, farm machinery or farm supplies to or from a farm and is not used in the operation of a common or contract carrier AND used within 150 miles of the person's farm are exempt from Texas Commercial Driver's License (CDL).

Classification of Driver's License (Non-CDL) TRC 521.081 - 521.082 - 521.083

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Is the vehicle a combination vehicle?
  YES
  Is the combination GVWR 26,001 lbs. or greater?
    YES
    Is the trailer(s) GVWR greater than 20,000 lbs?
      YES
      CLASS A DRIVER'S LICENSE
    NO
    Is the GVWR of the power unit 26,001 lbs. or greater?
      NO
      Is the GVWR of the farm trailer 20,000 lbs or less?
        YES
        CLASS B DRIVER'S LICENSE
      YES
      Is the GVWR of the power unit less than 26,001 lbs towing a farm trailer not more than 20,000 lbs?
        NO
        CLASS C DRIVER'S LICENSE
      NO
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NOTE: TAC 16.2 - If the GVWR cannot be determined, then the registered gross weight or the actual gross weight, whichever is greater, can be used for enforcement purposes.