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# Not Just Traffic: When a Non-Traffic Felony Conviction Disqualifies a Commercial Driver's License

*By Bella Truong, Staff Attorney, National Traffic Law Center*

The Commercial Motor Vehicles (CMV) industry is the backbone of America's economy, delivering \$700.4 billion worth of goods and comprising over 80% of the nation's freight.<sup>1</sup> Our economy relies heavily on the trucking industry, without which, things we have grown accustomed to, like a globalized economy and same day delivery, would not be possible. This translates to 8.7 million CMV drivers<sup>2</sup> who are required to maintain a commercial driver's license (CDL) to do so. While the economic impact is no doubt significant, perhaps more important is that those CDL holders are also entrusted with the lives of those they transport, to include our children daily, and those they encounter on our nation's roads.

<sup>1</sup> "When Trucks Stop, America Stops" by American Trucking Associations, 2019, [When Trucks Stop, America Stops \(trucking.org\)](https://www.trucking.org/when-trucks-stop-america-stops).

<sup>2</sup> Federal Motor Carrier Safety Administration, *Pocket Guide to Large Truck and Bus Statistics* 2022 ([dot.gov](https://www.dot.gov)).

With great power comes great responsibility, which is why the CMV industry, and consequently the CDL program, is highly regulated. CMV crashes are disproportionately high compared to that of passenger vehicle crashes.<sup>3</sup> Furthermore, CMV crashes are more likely to be fatal to non-CMV passenger vehicle occupants.<sup>4</sup> A fully loaded commercial motor vehicle weighs 80,000lbs and that 80,000lb commercial motor vehicle traveling 12 mph has the same kinetic energy as a 3,200lb passenger vehicle traveling 62 mph.<sup>5</sup>

It stands to reason that CDL holders are held to a higher standard, reflecting the inherent risk involved in the operation of a CMV. It is an immense responsibility for which Congress, and subsequently the Federal Motor Carrier Safety Administration (FMCSA), has imposed higher standards and a more stringent barrier of entry than a regular driver's license. Driving a CMV requires advanced skills and knowledge. In order to drive a CMV, a driver must obtain a commercial driver's license (CDL) which necessitates that the driver meet certain qualifications above that of a non-commercial license. Not only are CDL holders held to a higher standard to obtain a CDL, they are also subject to more strict laws and regulations to retain it.

### History of CDL Regulation

It was not always this way. The history of how the safety regulations developed serves as a good reminder that it was not long ago there was virtually no safety oversight on the trucking industry. It is even more powerful to reflect on how much the industry has evolved to protect the lives of CMV drivers and the people encounter on the nation's roads and highways.

Congress enacted the Commercial Motor Vehicle Safety Act (CMVSA) in 1986<sup>6</sup> to improve highway safety and ensure that only safe drivers operate CMVs by eliminating inconsistencies in the regulation of CDLs.<sup>7</sup> Prior to the CMVSA of 1986, there were neither uniform laws regulating the CMV industry nor uniform laws governing the licensing of commercial drivers. Drivers were neither required to have any specialized CMV knowledge nor required to have specialized training or testing to obtain a CDL.<sup>8</sup> The CMVSA of 1986 changed the CMV industry and instituted an infrastructure that was previously nonexistent nationwide.<sup>9</sup> It established minimum standards to obtain and maintain a CDL and also what we now colloquially refer to as "One Driver, One License, One Record."

The CMVSA of 1986 was followed by the Motor Carrier Safety Improvement Act (MCSIA) of 1999<sup>10</sup> which, in 2000, established the Federal Motor Carrier Safety Administration (FMCSA). It is through the FMCSA that the CMV and CDL regulations are promulgated. Among other things, these FMCSA regulations set minimum standards governing the issuance of CDLs and mandates the disqualification of a CDL when a driver commits certain offenses.

This article focuses on the portions of the FMCSA regulations derived from the CMVSA and MCSIA requiring states to ensure drivers convicted of certain violations be prohibited from operating a CMV.<sup>11</sup> More specifically, this article takes an in-depth look into 49 CFR § 383.51(b)(6), the federal regulation requiring a driver be

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<sup>3</sup> FMCSA Commercial Motor Vehicle Safety Facts, [CMV Traffic Safety Factsheet \(dot.gov\)](#) citing Fatality Analysis Reporting System (FARS) and Federal Highway Administration, Highway Statistics 2017 data.

<sup>4</sup> Fatality Facts 2020 Large Trucks, Insurance Institute for Highway Safety-Highway Loss Data Institute, Large trucks ([ihs.org](#)).

<sup>5</sup> National District Attorneys Association's National Traffic Law Center, [Commercial Drivers' Licenses: A Prosecutor's Guide to the Basics of Commercial Motor Vehicle Licensing and Violations, Second Edition](#) (2017).

<sup>6</sup> Commercial Motor Vehicle Safety Act of 1986, Pub. L. No. 99-570, tit, XII, §§ 12001-12019, 100 Stat. 3207-170 (1986) (Codified as amended at 49 U.S.C. §§ 31301-31317) ("CMVSA").

<sup>7</sup> *Id.*

<sup>8</sup> National District Attorneys Association's National Traffic Law Center, [Commercial Drivers' Licenses: A Prosecutor's Guide to the Basics of Commercial Motor Vehicle Licensing and Violations, Second Edition](#) (2017).

<sup>9</sup> *Id.*

<sup>10</sup> 49 USC § 31100 et seq.

<sup>11</sup> 1986 Commercial Motor Vehicle Safety Act, codified at 49 USC §31310 et seq., later promulgated by FMCSA 49 CFR § 383.51.

disqualified from operating a CMV for a period of time as a consequence of a conviction for using a vehicle to commit a felony.<sup>12</sup> First, it will give an overview of the disqualification regulations; followed by an in-depth case study example, analyzing the federal regulation and corresponding state statute; and lastly, it will cover strategies and best practices to ensure the proper prosecution and subsequent documentation and recording of the conviction.

### Disqualification

Disqualification is the sanction taken against drivers who violate certain state and federal laws. 49 CFR § 383.51 sets out guidelines and requirements for disqualification of a CDL or commercial learner's permit (CLP) upon conviction of certain offenses. 49 CFR § 383.51 describes four categories of disqualifications: 1) Major Offenses, 2) Serious Traffic Offenses, 3) Railroad-highway Grade Crossing Offenses and 4) Disqualification for Violating Out-of-Service Orders. Prosecutors will almost exclusively deal with only the first and second categories (Major Offenses and Serious Traffic Offenses) and thus the sole focus in this article.<sup>13</sup>

The disqualification provisions originally included in the CMVSA of 1986 only related to violations committed while driving a CMV. The Motor Carrier Safety Improvement Act (MCSIA) of 1999 amended the CMVSA by adding disqualifications for CDL holders convicted of committing violations while operating non-CMV.<sup>14</sup> As reflected in the tables below, major offenses and serious traffic violations now include both offenses related to operating a CMV and offenses related to operating a non-CMV.

### Major Offenses

Major offenses trigger a disqualification for a certain period of time upon the first conviction and a graduated scale of additional disqualification time with subsequent convictions. Some major offense convictions invoke a lifetime disqualification without eligibility for reinstatement upon the first conviction whereas other major offense convictions start with a 1-year disqualification, followed by a lifetime disqualification after a second conviction. If the driver was operating a CMV transporting hazardous materials, the first conviction for a major offense incurs a 3-year disqualification followed by a lifetime disqualification after a second conviction. Major offenses include both convictions for dangerous driving behaviors and dangerous behaviors using a motor vehicle. While prosecutors are familiar with license disqualifications based on traffic specific convictions, most are not as familiar with disqualifications resulting from non-traffic felony convictions using a motor vehicle. Not all major offense violations require that the conviction involve the operation of a CMV. Some major offense violations committed in a non-CMV bear disqualification implications for a CLP or CDL holder. The ten major offenses and their corresponding disqualification penalties are outlined in Table 1 of 49 CFR § 383.51, reproduced below.

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<sup>12</sup> 49 CFR § 383.51(b)(6).

<sup>13</sup> For further information on the disqualification tables, see also the [National Judicial College CDL Disqualification Benchcard](#).

<sup>14</sup> "Commercial Driver's License Standards; Requirements and Penalties; Noncommercial Motor Vehicle Violations (Notice of Proposed Rulemaking; Request for Comments)" *Federal Register* 66:87 ( May 4, 2001) p. 22499; [01-10583.pdf](#) ([govinfo.gov](#)).

**TABLE 1**

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 CDL and a CLP or CDL holder must be disqualified from operating a CMV for ...	For a first conviction or refusal to be tested while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV for ...	For a first conviction or refusal to be tested while operating a CMV transporting hazardous materials as 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 ...	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this 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 ...	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV for ...
(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 accident	1 year	1 year	3 years	Life	Life
(6) Using the vehicle to commit a felony, other than a felony described in paragraph (b)(9) or (10) of this table	1 year	1 year	3 years	Life	Life

**TABLE 1 (cont'd)**

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 CDL and a CLP or CDL holder must be disqualified from operating a CMV for ...	For a first conviction or refusal to be tested while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV for ...	For a first conviction or refusal to be tested while operating a CMV transporting hazardous materials as 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 ...	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this 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 ...	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV for ...
<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</b>	1 year	Not applicable	3 years	Life	Not applicable
<b>(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</b>	1 year	Not applicable	3 years	Life	Not applicable
<b>(9) Using the vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance</b>	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
<b>(10) Using a CMV 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)</b>	Life—not eligible for 10-year reinstatement	Not applicable	Life—not eligible for 10-year reinstatement	Life—not eligible for 10-year reinstatement	Not applicable

## Serious Traffic Violations

As the title implies, serious traffic violations include only traffic specific convictions. Serious traffic violations have disqualification implications under 49 CFR § 383.51 upon the second conviction. Subsequent convictions of serious traffic violations (after a second conviction) that would implicate a longer length of disqualification require that the subsequent serious traffic violation happen within a 3-year period. Similar to major offense convictions, not all serious traffic violations require that the conviction involve the operation of a CMV. Some serious traffic violations committed in a non-CMV bear disqualification implications for a CLP or CDL holder. The ten serious traffic violations and their corresponding disqualification penalties are outlined in Table 2 of 49 CFR § 383.51, reproduced below.

**TABLE 2**

If a 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



**TABLE 2 (cont'd)**

If a 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 ...
<b>(6) Driving a CMV without obtaining a CLP or CDL</b>	60 days	Not applicable	120 days	Not applicable
<b>(7) Driving a CMV without a CLP or CDL in the driver's possession<sup>a</sup></b>	60 days	Not applicable	120 days	Not applicable
<b>(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</b>	60 days	Not applicable	120 days	Not applicable
<b>(9) Violating a State or local law or ordinance on motor vehicle traffic control prohibiting texting while driving a CMV<sup>b</sup></b>	60 days	Not applicable	120 days	Not applicable
<b>(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>b</sup></b>	60 days	Not applicable	120 days	Not applicable

<sup>a</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>b</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.

### Case Study—Disqualification based on using a vehicle to commit a felony under 49 CFR § 383.51(b)(6)

The CMVSA of 1986 included CDL disqualification provisions related to general felony convictions and drug related felonies but only if committed in a CMV. The MCSIA amended those provisions to sanction those violations committed in any vehicle, not just specifically those committed in a CMV. Currently, 49 CFR § 383.51(b)(6) imposes a CLP or CDL disqualification for a conviction that involves using a vehicle (any vehicle, not only a CMV) to commit a felony. This encompasses all felonies—specifically traffic related or not—so long as the felony was committed using a vehicle. The only felonies this provision excludes are those specifically covered under 49 CFR § 383.51(b)(9) and (b)(10) which involve the manufacturing, distributing, or dispensing a controlled substance and severe forms of trafficking in persons, respectively.

States are required to impose appropriate penalties that are consistent with these federal penalties.<sup>15</sup> Some states adopt 49 CFR § 383 and 49 CFR § 384 in total and incorporate them by reference but oftentimes, states codify these regulations within state statutory language. For example, South Dakota set out their statutory structure by organizing disqualifications by length of time the license is to be disqualified. South Dakota specifically addressed felonies committed using a vehicle by codifying it in their state statute §32-12A-36, subsection (4):

#### **§32-12A-36. Persons disqualified from driving commercial motor vehicle for period of not less than one year or not less than three years**

Any person is disqualified from driving a commercial motor vehicle for a period of not less than one year:

- (1) If convicted of a first violation of driving or being in actual physical control of a commercial or noncommercial motor vehicle while under the influence of alcohol, or any controlled drug or substance, in violation of § 32-23-1;
- (2) If convicted of a first violation of driving or being in actual physical control of a commercial motor vehicle while there is 0.04 percent or more by weight of alcohol in that person's blood as shown by chemical analysis of that person's breath, blood, or other bodily substance, in violation of § 32-12A-44;
- (3) If convicted of a first violation of leaving the scene of an accident while operating a commercial or noncommercial motor vehicle, in violation of § 32-34-5 or 32-34-6;
- (4) If convicted of a first violation of using a commercial or noncommercial motor vehicle in the commission of any felony other than a felony described in § 32-12A-38; or
- (5) For refusing to submit to a chemical analysis for purposes of determining the amount of alcohol or drugs in that person's blood or other bodily substance while driving a commercial or noncommercial motor vehicle in violation of § 32-12A-43 or 32-12A-46;
- (6) If convicted of a first violation of operating a commercial motor vehicle while the person's commercial driver license is revoked, suspended, or canceled or the person is disqualified from operating a commercial motor vehicle in violation of § 32-12A-8. The department may not issue a new license until one year from the date the person would otherwise have been entitled to apply for a new license; or
- (7) If convicted of a first violation of causing a fatality through the negligent operation of a commercial motor vehicle.

If any of these violations or refusal occurred while transporting hazardous material required to be placarded, the person is disqualified for a period of not less than three years.

<sup>15</sup> 49 CFR § 384.213 State penalties for drivers of CMVs.



## Not Just Traffic: When a Non-Traffic Felony Conviction Disqualifies a CDL

In *Ibrahim v. Department of Public Safety*, Ibrahim challenged his CDL disqualification based on South Dakota's statute § 32-12A-36(4), which revoked his CDL for one year as a result of a felony conviction where he used a vehicle. *Ibrahim v. Department of Public Safety*, 956 N.W.2d 799 (2021). The Supreme Court of South Dakota specifically addressed the issue of "whether possession of a felony quantity of marijuana while using a motor vehicle is "using a ... vehicle in the commission of any felony ..." *Ibrahim v. Department of Public Safety*, 800.<sup>16</sup>

The facts of the case show that, on or about, August 19, 2017, Ibrahim was pulled over for an equipment violation and subsequently, a felony amount of marijuana was found in the vehicle. Ibrahim was later convicted of this felony on March 28, 2018. Ibrahim was given notice by the Department of Public Safety (DPS) that his CDL would be disqualified for a year based on the conviction. Ibrahim challenged the disqualification, and an administrative hearing was held before the Office of Hearing Examiners (OHE). DPS introduced an abstract of Ibrahim's driving history which included the 2017 citation and a "subsequent conviction on March 28, 2018, for a "[f]elony committed in a vehicle by a CDL holder." *Ibrahim v. Department of Public Safety*, 801. OHE ordered that Ibrahim's CDL be disqualified for a year whereupon Ibrahim appealed.

The crux of the court's opinion focused on the meaning of "using" a vehicle in the commission of a felony. Ibrahim argued that § 32-12A-36(4) applied to only those felonies that required the use of a vehicle to commit the offense. The court held that there was nothing to suggest the statute intended to exclude felonies that could also be committed without a vehicle. The court went on to say, "To the contrary, the Legislature's inclusion of the 'any felony' language suggests that subsection (4) is a catch-all provision that requires disqualification of CDL privileges whenever a vehicle is used in the commission of a felony." *Ibrahim v. Department of Public Safety*, 804.

Simply, felonies committed with a vehicle (any vehicle, not only a CMV) trigger a CDL disqualification. Most prosecutors are aware that traffic related offenses generally may have CDL disqualification consequences but likely do not contemplate these consequences for a non-traffic felony conviction. Further, it may be even more surprising that 49 CFR § 383.51(b)(6) and the corresponding state statutes are so expansive. Not only do they encompass all felonies,<sup>17</sup> but the nexus of the felony to the use of a motor vehicle is also rather straightforward. Much like the court interpreted in *Ibrahim*, "use" is construed as its plain language meaning. This, taken with all of the disqualification provisions, is designed to capture and proscribe both dangerous driving behaviors and dangerous behaviors using a vehicle. The government entrusts CDL holders with an immense amount of responsibility and thereby holds them to a higher standard for all actions involving a vehicle to protect the safety of the public.

### Prosecutor Considerations

Safety regulations, however, can only be effective if law enforcement, prosecutors, and reporting agencies enforce them. Understanding the mandatory CDL sanctions required by the FMCSA regulations is an important first step. All prosecutors need to be aware of these CDL sanctions in order to ensure accurate reporting of all convictions triggering a CDL disqualification. Knowing now that CDL sanctions impact cases that are not solely traffic related, every prosecutor must screen their cases for offenses that would implicate a CDL disqualification.

To truly capture these cases, prosecutors should establish standard operating processes and procedures in tandem with educating the prosecutors in the office, to ensure the violations are not missed or overlooked. Having a mechanism that would identify cases involving CDL holders would help in this regard. If a vehicle is used in the commission of the offense, instituting a standard practice of obtaining the defendant's driving abstract upon case intake and including it in the file would also facilitate the appropriate handling of these cases. Prosecutors should also consider the use of a clear marking on the case jacket indicating the case requires further action regarding a CDL disqualification.

<sup>15</sup> 49 CFR § 384.213 State penalties for drivers of CMVs.

## Not Just Traffic: When a Non-Traffic Felony Conviction Disqualifies a CDL

While education and awareness are the first steps, there are practical considerations for prosecutors to ensure the convicted CDL holders lose their CDL privilege for the statutorily prescribed length of time. To this end, each prosecutor should be prepared with the relevant state statute providing for the CDL sanction. When a case is going to be tried by judge or jury, the prosecutor should consider how to include the issue of commercial or noncommercial motor vehicle use. Relevant questions include, for example, whether the state considers this a question for the finder of fact or a matter of law. In addition, the prosecutor should think about the state requirements for notice and due process relating to license privilege actions. Out of an abundance of caution, the prosecutor should include charging language identifying the defendant as a CDL holder and that the defendant committed the offense using a vehicle. Ensure that any verdict forms include questions where the finder of fact can annotate specific findings reflecting that the defendant is a CDL holder and that the defendant committed the offense using a vehicle.

In the instance of pleas, the prosecutor can include in the factual basis supporting any plea agreement the specific circumstances that support the sanction. For instance, the facts can include information about how a vehicle was used in the commission of the offense and provide a description of the vehicle. In plea negotiations and when announcing the plea to the court, the prosecutor can include a discussion of the mandated CDL sanction, avoiding future issues where a defendant claims he or she was unaware of the repercussions of the plea.

Once judgment is entered, whether by plea or trial, the prosecutor must request of the judge to make specific findings regarding the facts that trigger a CDL disqualification and ensure those are included in the judgment form. The prosecutor must also follow up with the court clerk to confirm that the clerk will forward the conviction to the state driver license agency (SDLA) with the proper facts and findings. Similar to prosecutors, court clerks who do not primarily deal with traffic related cases may not be aware that felony convictions involving the use of a vehicle must be forwarded to the SDLA. Every single state actor bears responsibility in this process, from law enforcement, prosecutors, court personnel to state driver's license agencies. Prosecutors, however, are uniquely situated to have greater impact in this process because they have direct contact with, and the ability to educate, almost every entity in the process.

It is also important to remember that there are consequences for noncompliance. The penalties for noncompliance include the state's loss of significant federal funding and the decertification of the state CDL program.<sup>18</sup> However, at the end of the day, it is more valuable to keep the primary mission of these regulations at the forefront. These federal regulations were created to ultimately save lives and the goal is to ensure that a driver's record accurately reflects their driving behavior in order to get dangerous drivers with dangerous behaviors off the road.

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For additional information relating to CDL Disqualification, other CDL-related matters, or to access CDL-related resources, please visit the NTLC website [here](#) or visit [ndaa.org/programs/ntlc/commercial-drivers-license](https://ndaa.org/programs/ntlc/commercial-drivers-license).

NTLC attorneys are also available to answer questions; contact [Senior Attorney Jim Camp](#) or [Staff Attorney Bella Truong](#).

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<sup>16</sup> 49 CFR § 383.51(b)(9) deals specifically with controlled substances but that provision requires manufacturing, distributing, or dispensing of a controlled substance which did not apply in this case.

<sup>17</sup> All felonies except for those covered under another specific statute provision.

<sup>18</sup> 49 CFR § 384.401 Withholding of funds based on noncompliance, 49 CFR § 384.405 Decertification of the State CDL Program.

### About the Author

Bella Truong is a Staff Attorney in the National District Attorneys Association's National Traffic Law Center. Her work involves matters relating to the Federal Motor Carrier Safety Administration. Bella has a dozen years of multifaceted legal experience prior to joining NDAA, the majority of which she served as a prosecutor in both the Cumberland County District Attorney's Office (Fayetteville, NC) and the Pierce County Prosecuting Attorney's Office (Tacoma, WA). She has focused on impaired driving cases for many years and has also provided training and guidance for multidisciplinary teams, including training FBI agents on local laws dealing with human trafficking. Bella is a graduate of the United States Military Academy at West Point and the University of Kansas School of Law.



# Upcoming Live Webinars



## ***Not Just Traffic—Felony Convictions and the Impact on a Commercial Driver’s License***

**Live Webinar, March 23, 2023  
@ 2:00 p.m. to 3:00 p.m. ET**

Commercial driver license (CDL) holders have the privilege of operating 80,000-pound vehicles, and with that privilege comes greater training, licensing expectations, and responsibility. This training will focus on the consequences of

a conviction, specifically a felony conviction, on a CDL holder’s driving record and how a complete driving record fulfills the “One Driver, One License, One Record” concept. It’s important to realize that if the defendant is charged with a felony and holds a CDL, there may be important consequences to his or her CDL, including disqualification of the license. The training will also explain the role of law enforcement, prosecutors, judges, clerks and State Driver License Agencies in adjudicating a felony case with a CDL holder as a defendant, and the importance of ensuring the defendant’s CDL status and other pertinent vehicle information are documented at every stage of the case. All traffic safety professionals, from roadside to record, need to work together to ensure that all convictions, including felony convictions, are recorded on the defendant’s driving record, ensuring that this record is complete and accurate, and thus adhering to federal and state law.

To register for this free webinar, please [click here](#).



## ***Technology, Tools, and Resources to Combat Impaired Driving Cases***

**Live Webinar, April 27, 2023  
@ 2:00 p.m. to 3:00 p.m. ET**

CLE: 1.00 Credit

Impaired driving is a dangerous criminal offense. A consistent and effective approach when prosecuting these cases will help reduce traffic crashes, injuries, and death on our roadways. This webinar is dedicated to providing

prosecutors and law enforcement officers with the most recent technology, tools, and resources to help combat impaired driving around the country.

To register for this free webinar, please [click here](#).