

On the Road Again: Trucking Along with CDL/CMV Laws and Regulations

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The Law is very clear in stating that both a Driver Safety Course (*45.0511*) and a Deferred Disposition (*45.051(f)*) are ____ _____ to any CDL License/Permit holder even if in their personal vehicle, if the offense charged relates to Motor Vehicle Control.

PERIOD!!!

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Prohibition on “Masking” convictions

The State must not **mask, defer** imposition of judgment, or allow an individual to enter into a **diversion program** that would prevent a **CDL** driver’s conviction for **ANY** violation, **in any type** of motor vehicle, of a state or local traffic control law (except parking) from appearing on the driver’s record, whether the driver was convicted for an offense committed in the state where the driver is licensed or in any other state.

49CFR 384.226

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Deferred and DSC for CDL License Holders

Deferred disposition **may not** be granted on any offense relating to motor vehicle control, other than parking, committed by a person who holds a CDL or who held one at the time of the offense.

Art. 45.051(f) CCP

There is no statutory definition of **“relating to motor vehicle control.”**

Some offenses fall into a gray area and it is up to the **judge** to

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So what does that mean?

A good rule of thumb is that deferred disposition should **not** be allowed for a CDL holder for any ***“Rule of the Road”*** offense or any other offense that made the operation of the vehicle less safe for other vehicles or pedestrians.

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Deferred Disposition

- ***May not*** have if the offense “relates to motor vehicle control.”
- CDL holder _____ have deferred for offenses like Public Intoxication or Disorderly Conduct
- ***May not*** have for offenses like Speeding or Unsafe Lane Change
- Up to judge if ***“gray area”*** offenses like no insurance or weight and equipment violations
- Do they “relate to motor vehicle control”?

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- **DSC**
 - Holder of a CDL *can't* have DSC dismissal for any offense in any type of vehicle.
- **Pretrial Diversion**
 - Doesn't violate the masking law *but* does violate the *ethical spirit* of the law.
- **What about on appeal**
 - They *can't* have it on appeal either, but *not* your circus, *not* your monkeys.
- *Explain Appeal Procedure*

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Why does
federal law
affect state
court?

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644.051-TTC - Authority to Adopt Rules

- A. The director shall, after notice and a public hearing, adopt rules regulating:
 - 1. the safe transportation of hazardous materials; and
 - 2. the safe operation of commercial motor vehicles.
- B. A rule adopted under this section must be consistent with federal regulations, including federal safety regulations.

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644.151 Criminal Offense

- A. A person commits an offense if the person:
 - 1. Violates a rule adopted under this chapter – Texas Admin Code – Title 37 – Chapter 4
- B. An offense under this subsection is a **Class C Misdemeanor Fine**
Range \$ _____ to \$ _____

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Goals of the Commercial Motor Vehicle Safety Act

- To subject Commercial Motor Vehicle drivers to new uniform sanctions for unsafe driving practices.
- To ensure all CMV drivers demonstrate the minimum levels of knowledge, experience, skills and physical abilities needed to safely operate commercial motor vehicles before being licensed.
- _____ traffic violations committed by a CDL holder can affect their ability to maintain their CDL Certification.

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Commercial Motor Vehicle Sec 383.3 - FMCSR

A motor vehicle or combination of motor vehicles, used in commerce, to transport passengers or property.

Sec 502.001- TTC eff: 9-1-13

(7) "Commercial Motor Vehicle" means motor vehicle, other than a motorcycle, designed or used primarily to transport property. Including a passenger car reconstructed and used primarily for delivery purposes.

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Sec. 522.011 – Failure to Display CDL

Person must not drive CMV unless

- (a) has CDL in possession
- (b) is not disqualified or out of service
- Max fine is \$500, unless previous conviction within previous 12 months, then max fine \$1000

DEFENSE TO PROSECUTION

It is a “defense to prosecution” that the person produces for the court a valid CDL in the “appropriate class” that was valid when offense was committed

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Sec. 522.011 – Failure to Display CDL Permit

Person must not drive CMV unless

- (a) the person has in the person's immediate possession a commercial learner's permit and driver's license issued by the department; and
- (b) is accompanied by the holder of a commercial driver's license

Max fine is \$500, unless previous conviction within previous 12 months, then max fine \$1000

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Sec. 522.011 – Failure to Display CDL Permit

DEFENSE TO PROSECUTION

It is a “defense to prosecution” that the person produces for the court a valid CDL permit in the “appropriate class” and a regular DL that was valid when offense was committed

Dismissal Fee not to exceed \$ _____

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CDL License INTERstate VS. INTRAstate

- *Inter*state commerce means trade, traffic or transportation:
 - Within the U.S. between a place in a state and a place *outside of such state* or outside of the U.S., or
 - Between two places in a state, through another state or outside of the U.S. (such as _____, Canada, etc.)

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CDL License INTERstate VS. INTRAsate

- *Intra*state commerce is the:
 - Transportation of property (a commodity) where the point of origin and destination are *within one state* and the state line, or
 - International boundary is not crossed.

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CDL Exemptions

- Farmers, ranchers, and their employees or family members using CMV class vehicle to transport agricultural products, farm machinery or supplies, used within 150 miles of farm, not for contract or common carrier
 - Firefighters and Emergency Personnel
 - Military personnel in Military vehicles
 - Persons operating recreational vehicles for personal use
- *Not being used to transport goods for sale at craft shows, fairs, etc.***

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CDL Restrictions

- L - Only operate CMV w/o air brakes
- M - Only operate Intrastate (w/in Texas)
- P – Personal restrictions-operate only as per restriction on the driver's license
- P-9 to P-33 all deal w/CDL license issues

522.043 – Restrictions; Offense

Class C misdemeanor

\$1 - \$500

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CDL Endorsements

- T - Double/Triple Trailers
- P – Passenger
- N - Tank Vehicle

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CDL Endorsements

- H - Hazardous Materials
- X - Combination Tank and Hazardous Materials
- S - School Bus

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Sec. 643.054-TTC Dept. Issues Certificate (Registration)

- The department shall issue a certificate containing a *single registration number* to a motor carrier, regardless of the number of vehicles requiring registration the carrier operates
- **Sec. 643.057 - Additional Vehicles and Fees**
 - A motor carrier may not operate an additional vehicle requiring registration unless the carrier pays a registration fee of \$10 for each and shows evidence of insurance in an amount set by the Dept.
- **Registration is valid for ONE year 643.058-TTC**

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Sec 643.059-TTC-Cab Card

- (c) A motor carrier required to register under this subchapter **must** keep the ***cab card*** in the cab of each vehicle requiring registration the carrier operates.

Sec 643.253 Offenses and Penalties

An offense under this section is a Class C misdemeanor and is

NOT DISMISSABLE (by the court)

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Sec 643.059-TTC-Cab Card

- (a) A motor carrier that is required to register **must** file with the Department evidence of insurance in the amounts required or evidence of financial responsibility (self-Insurance) in a form prescribed by the Department
 - (1) at the time of initial registration
- (b) A motor carrier shall keep evidence of insurance in the cab of each vehicle.

An offense under this section is a Class C misdemeanor and is

NOT DISMISSABLE (by the court)

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Sec. 391.41 Physical Qualifications for Drivers - 49CFR part 391, subpart E 391.41 (a)(2)

- (a) A person shall not drive a commercial motor vehicle unless he/she is physically qualified to do so

CDL/CLP exception:

- Beginning January 30, 2015, a driver required to have a CDL, and who submitted a current medical examiner's certificate to the state documenting that he/she meets the physical qualification requirements, no longer needs to carry the medical examiners certificate on his/her person, or a copy for more than 15 days after the date it was issued as valid proof of such certification.

An offense under this section is a Class C misdemeanor and is NOT DISMISSABLE (by the court)

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Sec. 621.002 - Heavy Vehicle Registration Receipt

- A copy of a registration receipt issued under Section 502.178 (shows gross weight allowable) for a CMV, truck-tractor, trailer or semi-trailer shall be:
 - (1) carried on a vehicle when the vehicle is on a public highway; and
 - (2) presented to an officer authorized to enforce this chapter on request of the officer

SEC. 621.501 TC – Failure to carry a receipt is punishable by a fine up to \$200

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Over “Registered” Weight is a

Violation

NOT a Weight Violation

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CDL Compliance Dismissals

	CMV	PV
Registration	w/Motion from Prosecutor	YES
Equipment Violations	NO	YES
Insurance	W/Motion from Prosecutor	YES

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Helpful Websites

DPS: www.txdps.state.tx.us/cve (click on CMV Laws then Texas Laws)

FMCSA: www.fmcsa.dot.gov - (Varies by what looking for)

OTHER HELPFUL SITES: you can use to check insurance and additional activity and stops elsewhere in Texas on the trucks. You can see when the Insurance was added to the truck fleet and policy or if it was suspended and added after the initial stop.

TXDOT #truck check: <http://apps.txdmv.gov/apps/mccs/truckstop/>

USDOT #truck check:

http://lipublic.fmcsa.dot.gov/LIVIEW/pkg_carrquery.prc_carrlist

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Helpful Websites

The Company Snapshot is a concise electronic record of a company's identification, size, commodity information, and safety record, including the safety rating (if any), a roadside out-of-service inspection summary, and crash information. The Company Snapshot is available via an ad-hoc query (one carrier at a time) free of charge.

<https://safer.fmcsa.dot.gov/CompanySnapshot.aspx>

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Weight Laws

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Sec. 621.101-Maximum Weight Single Axle

- (a) A vehicle or combination of vehicles may not operate on a public highway if the vehicle or combination has:
 - (1) a single axle weight heavier than 20,000 lbs. including all tolerances

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Sec 621.101-Maximum Weight Tandem Axle

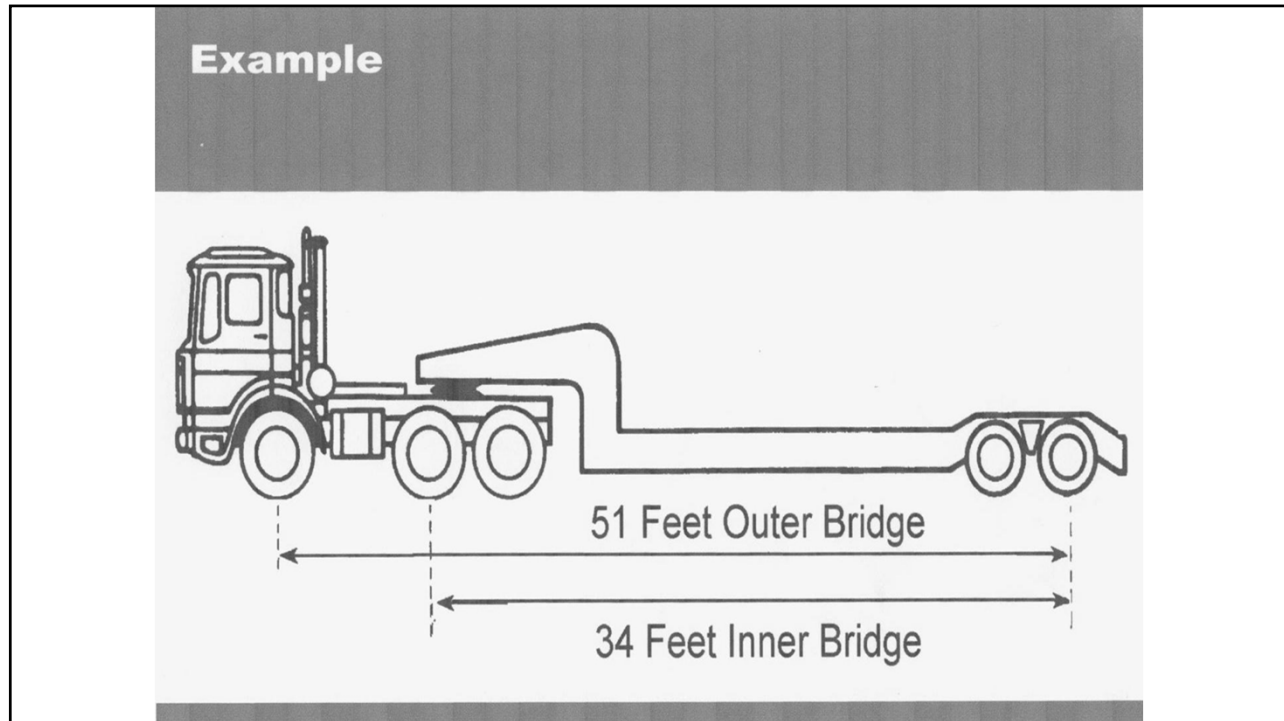
- (2) A tandem axle weight heavier than 34,000 lbs., including all tolerances

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Sec. 621.101(b) Overall Gross Weight

- An overall Gross Weight on a group of two or more consecutive axles may not be heavier than 80,000 pounds, including all tolerances, regardless of tire rating, axle spacing (bridge) and number of axles.

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Sec. 621.506 – (effective 9-1-13) Overweight Vehicle; Penalty

a) In Violation of - 621.101, 622.012,031,041,0435,051,061,133,953 or 623.162

b) An offense under this section is a misdemeanor punishable:

- 1) by a fine of not less than \$100 or more than \$250.
- 2) on conviction of an offense involving a vehicle having a

Single axle or Tandem axle weight

- Less than 2500: \$100 - \$500
- 2,500-5,000: \$500 - \$1,000
- More than 5,000: \$1,000 - \$2,500

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Sec. 621.506 – (effective 9-1-13)

Overweight Vehicle; Penalty

- a) In Violation of - 621.101, 622.012,031,041,0435,051,061,133,953 or 623.162
- b) An offense under this section is a misdemeanor punishable:
 - 1) by a fine of not less than \$100 or more than \$250.
 - 2) on conviction of an offense involving a vehicle having a

Gross weight - same as above +

- 5,001-10,000: \$1,000 - \$2,500
- 10,001-20,000: \$2,500 - \$5,000
- 20,001-40,000: \$5,000 - \$7,000
- More than 40,000: \$7,000 - \$10,000

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Overweight Penalty - Sec 621.506 (g)

- A governmental entity that collects a fine under this section for an offense that is more than **5,000** pounds heavier than the allowable weight shall send

____% of the "fine" to the State comptroller.

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621.102 – Authority to set maximum weights

- (a) The director of TxDOT may set max weights that may be moved over a state highway or Farm or Ranch to Market road if it finds that heavier weights would rapidly deteriorate the road, bridge or culvert along the road.
- (c) becomes effective when signs posted
- (d) may operate under special permit (heavier)
- (f) does not apply to delivering groceries, farm products or liquefied petroleum gas.

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621.301 - County's Authority to set Maximum Weights – (*ZONED ROADS*)

- a) The Commissioner's Court of a county may establish load limits for any county road or bridge only with the concurrence of TxDOT.

- b) The Commissioner's Court may limit the maximum weights to be moved over a county road, bridge or culvert.

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621.301 - County's Authority to set Maximum Weights – (*ZONED* ROADS)

- a) A person commits offense if violates provision for which an offense is NOT specified by another section of this title.
- b) Misdemeanor punishable:
 - 1) by a fine not to exceed ***\$200.00***
 - 2) on conviction before first anniversary date: becomes a County Court offense as punishable by fine and confinement.

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621.507-General offense PENALTY

Fine amount \$___ - \$____

(DO NOT USE OVERWEIGHT CHART)

{No matter how many pounds overweight}

See Attorney General Opinion

KP-00354 dated February 9, 2021

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Processing payments without a plea from the Driver/Defendant

- You should _____ take a check or payment in person from a motor carrier company for payment of an offense by one of their drivers that is not accompanied by a written plea from the driver or have the driver present to enter plea.
- Recommendation is to _____ take a mailed-in check not in the defendant's name unless accompanied by written plea from driver (defendant).

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Texting and Mobile Phone Use 383.51- Disqualification of Drivers

(9) Violating a state or local law or ordinance prohibiting **TEXTING** and driving*(2)

(10) Violating a state or local law or ordinance prohibiting the use of a **hand-held mobile phone** while driving a CMV *(2)

*(2) Driving for the purpose of this disqualification means operating a CMV on a highway, including while temporarily stationary because of traffic or traffic devices. Does not include if moved to the side of or off the highway and has halted motion in a location where the vehicle can safely remain stationary.

FMCSR 383.5 and TTC Sec. 545.4251

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CMV-FMCSR VS. PV-TTC

- Texting Penalties
 - CDL holders subject to the Federal rule (FMCSR 383.51) only when driving a CMV. Fine \$1-\$500
 - CDL in Personal Vehicle-(TTC-545.4251). Fine \$25-\$99
- Mobile Phone Use Penalties
 - CMV – FINE \$1 - \$500
 - PV – you should not get this offense as it would only be a violation of a “CITY” ordinance.

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- Research commissioned by FMCSA shows that the odds of being involved in a safety-critical event (e.g., crash, near-crash, unintentional lane deviation) are **6 times greater for CMV drivers** who engage in dialing a mobile phone while driving than for those who do not. Dialing drivers took their eyes off the forward roadway for an average of 3.8 seconds. At 55 mph (or 80.7 feet per second), this equates to a driver traveling 306 feet, the approximate length of a football field, without looking at the roadway! **WOWZA!**

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522.003 Disqualification

- Disqualification - Multiple violations of the prohibition of using a hand-held mobile phone while driving a CMV can result in a driver disqualification by FMCSA. Multiple violations of State laws prohibiting use of a mobile phone while driving a CMV is a “serious traffic violation” that could result in a disqualification by a State of drivers required to have a Commercial Drivers License.

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Sec 522.003 Definition of “Disqualify”

- (9) “Disqualify” means to withdraw the privilege to drive a CMV, including to suspend, cancel, or revoke that privilege under a State or Federal law.

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List of Disqualifying offenses

- Driving a CMV while under the influence of Alcohol
- Driving while alcohol concentration is 0.04% or more
- Driving a CMV while under influence of drug or controlled substance
- Leaving scene of accident involving CMV
- Using CMV to commit a felony

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List of Disqualifying offenses

- Two serious traffic violations w/in 3-year period
- Violations that regulate CMV at railroad grade crossings
- Refusing to submit to testing to determine if alcohol or drugs in system
- Causing death of someone due to negligent operation of CMV
- Driving CMV while CDL revoked, suspended, cancelled or disqualified

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