

§ 383.51

49 CFR Ch. III (10–1–01 Edition)

(b) During any period in which the driver has more than one CMV driver's license;

(c) During any period in which the driver, or the CMV he or she is driving, or the motor carrier operation, is subject to an out-of-service order; or

(d) In violation of a Federal, State, or local law or regulation pertaining to railroad-highway grade crossings.

[64 FR 48110, Sept. 2, 1999]

Subpart D—Driver Disqualifications and Penalties

§ 383.51 Disqualification of drivers.

(a) *General.* A driver who is disqualified shall not drive a commercial motor vehicle. An employer shall not knowingly allow, require, permit, or authorize a driver who is disqualified to drive a commercial motor vehicle.

(b) Disqualification for driving while under the influence, leaving the scene of an accident, or commission of a felony.

(1) *General rule.* A driver who is convicted of a disqualifying offense specified in paragraph (b)(2) of this section, is disqualified for the period of time specified in paragraph (b)(3) of this section, if the offense was committed while operating a commercial motor vehicle.

(2) *Disqualifying offenses.* The following offenses are disqualifying offenses:

(i) Driving a commercial motor vehicle while under the influence of alcohol. This shall include:

(A) Driving a commercial motor vehicle while the person's alcohol concentration is 0.04 percent or more; or

(B) Driving under the influence of alcohol, as prescribed by State law; or

(C) Refusal to undergo such testing as is required by any State or jurisdiction in the enforcement of § 383.51(b)(2)(i)(A) or (B), or § 392.5(a)(2).

(ii) Driving a commercial motor vehicle while under the influence of a controlled substance as defined by § 383.5 of this part.

(iii) Leaving the scene of an accident involving a commercial motor vehicle;

(iv) A felony involving the use of a commercial motor vehicle, other than

a felony described in paragraph (b)(2)(v) of this section; or

(v) The use of a commercial motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance as defined by § 383.5 of this part.

(3) *Duration of disqualification for driving while under the influence, leaving the scene of an accident, or commission of a felony—(i) First offenders.* A driver who is convicted of an offense described in paragraphs (b)(2)(i) through (b)(2)(iv) of this section, is disqualified for a period of one year provided the vehicle was not transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (49 U.S.C. 5101 *et seq.*).

(ii) *First offenders transporting hazardous materials.* A driver who is convicted of an offense described in paragraphs (b)(2)(i) through (b)(2)(iv) of this section, is disqualified for a period of three years if the vehicle was transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (49 U.S.C. 5101 *et seq.*).

(iii) *First offenders of controlled substance felonies.* A driver who is convicted of an offense described in paragraph (b)(2)(v) of this section, is disqualified for life.

(iv) *Subsequent offenders.* A driver who is convicted of an offense described in paragraphs (b)(2)(i) through (b)(2)(iv) of this section, is disqualified for life if the driver had been convicted once before in a separate incident of any offense described in paragraphs (b)(2)(i) through (b)(2)(iv) of this section.

(v) Any driver disqualified for life under § 383.51(b)(3)(iv) of this paragraph, who has both voluntarily enrolled in and successfully completed, an appropriate rehabilitation program which meets the standards of his/her State's driver licensing agency, may apply to the licensing agency for reinstatement of his/her commercial driver's license. Such applicants shall not be eligible for reinstatement from the State unless and until such time as he/she has first served a minimum disqualification period of 10 years and has fully met the licensing State's standards for reinstatement of commercial

motor vehicle driving privileges. Should a reinstated driver be subsequently convicted of another disqualifying offense, as specified in paragraphs (b)(2)(i) through (b)(2)(iv) of this section, he/she shall be permanently disqualified for life, and shall be ineligible to again apply for a reduction of the lifetime disqualification.

(c) *Disqualification for serious traffic violations*—(1) *General rule.* A driver who is convicted of serious traffic violations is disqualified for the period of time specified in paragraph (c)(2) of this section, if the offenses were committed while operating a commercial motor vehicle.

(2) *Duration of disqualification for serious traffic violations*—(i) *Second violation.* A driver who, during any 3-year period, is convicted of two serious traffic violations in separate incidents, is disqualified for a period of 60 days.

(ii) *Third violation.* A driver who, during any 3-year period, is convicted of three serious traffic violations in separate incidents, is disqualified for a period of 120 days.

(d) *Disqualification for violation of out-of-service orders*—(1) *General rule.* A driver who is convicted of violating an out-of-service order while driving a commercial motor vehicle is disqualified for the period of time specified in paragraph (d)(2) of this section. In addition, such driver is subject to special penalties as contained in § 383.53(b).

(2) *Duration of disqualification for violation of out-of-service orders*—(i) *First violation.* A driver is disqualified for not less than 90 days nor more than one year if the driver is convicted of a first violation of an out-of-service order.

(ii) *Second violation.* A driver is disqualified for not less than one year nor more than five years if, during any 10-year period, the driver is convicted of two violations of out-of-service orders in separate incidents.

(iii) *Third or subsequent violation.* A driver is disqualified for not less than three years nor more than five years if, during any 10-year period, the driver is convicted of three or more violations of out-of-service orders in separate incidents.

(iv) *Special rule for hazardous materials and passenger offenses.* A driver is disqualified for a period of not less than

180 days nor more than two years if the driver is convicted of a first violation of an out-of-service order while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (49 U.S.C. 5101 *et seq.*), or while operating motor vehicles designed to transport more than 15 passengers, including the driver. A driver is disqualified for a period of not less than three years nor more than five years if, during any 10-year period, the driver is convicted of any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, or while operating motor vehicles designed to transport more than 15 passengers, including the driver.

(e) *Disqualification for railroad-highway grade crossing violation*—

(1) *General rule.* A driver who is convicted of operating a CMV in violation of a Federal, State, or local law or regulation pertaining to one of the following six offenses at a railroad-highway grade crossing must be disqualified for the period of time specified in paragraph (e)(2) of this section:

(i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(ii) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(iii) For drivers who are always required to stop, failing to stop before driving onto the crossing;

(iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;

(v) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing;

(vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(2) *Duration of disqualification for railroad-highway grade crossing violation*—

(i) *First violation.* A driver must be disqualified for not less than 60 days if the driver is convicted of a first violation of a railroad-highway grade crossing violation.

§ 383.53

(ii) *Second violation.* A driver must be disqualified for not less than 120 days if, during any three-year period, the driver is convicted of a second railroad-highway grade crossing violation in separate incidents.

(iii) *Third or subsequent violation.* A driver must be disqualified for not less than 1 year if, during any three-year period, the driver is convicted of a third or subsequent railroad-highway grade crossing violation in separate incidents.

(f) *Substantial compliance by States.* (1) Nothing in this rule shall be construed to require a State to apply its criminal or other sanctions for driving under the influence to a person found to have operated a commercial motor vehicle with an alcohol concentration of 0.04 percent, except licensing sanctions including suspension, revocation, or cancellation.

(2) A State that enacts and enforces through licensing sanctions the disqualifications prescribed in §383.51(b) at the 0.04 alcohol concentration level and gives full faith and credit to the disqualification of commercial motor vehicle drivers by other States shall be deemed in substantial compliance with section 12009(a)(3) of the Commercial Motor Vehicle Safety Act of 1986.

[52 FR 20587, June 1, 1987, as amended at 53 FR 39050, Oct. 4, 1988; 54 FR 40788, Oct. 3, 1989; 55 FR 6727, Feb. 26, 1990; 57 FR 53295, Nov. 9, 1992; 59 FR 26028, May 18, 1994; 62 FR 37151, July 11, 1997; 64 FR 48111, Sept. 2, 1999]

§ 383.53 Penalties.

(a) *General rule.* Any person who violates the rules set forth in subparts B and C of this part may be subject to civil or criminal penalties as provided for in 49 U.S.C. 521(b).

(b) *Special penalties pertaining to violation of out-of-service orders—(1) Driver violations.* A driver who is convicted of violating an out-of-service order shall be subject to a civil penalty of not less than \$1,100 nor more than \$2,750, in addition to disqualification under §383.51(d).

(2) *Employer violations.* An employer who is convicted of a violation of §383.37(c) shall be subject to a civil penalty of not less than \$2,750 nor more than \$11,000.

49 CFR Ch. III (10–1–01 Edition)

(c) *Special penalties pertaining to railroad-highway grade crossing violations.* An employer who is convicted of a violation of §383.37(d) must be subject to a civil penalty of not more than \$10,000.

[59 FR 26028, May 18, 1994, as amended at 64 FR 48111, Sept. 2, 1999]

Subpart E—Testing and Licensing Procedures

SOURCE: 53 FR 27649, July 21, 1988, unless otherwise noted.

§ 383.71 Driver application procedures.

(a) *Initial Commercial Driver's License.* Prior to obtaining a CDL, a person must meet the following requirements:

(1) A person who operates or expects to operate in interstate or foreign commerce, or is otherwise subject to part 391 of this title, shall certify that he/she meets the qualification requirements contained in part 391 of this title. A person who operates or expects to operate entirely in intrastate commerce and is not subject to part 391, is subject to State driver qualification requirements and must certify that he/she is not subject to part 391;

(2) Pass a knowledge test in accordance with the standards contained in subparts G and H of this part for the type of motor vehicle the person operates or expects to operate;

(3) Pass a driving or skills test in accordance with the standards contained in subparts G and H of this part taken in a motor vehicle which is representative of the type of motor vehicle the person operates or expects to operate; or provide evidence that he/she has successfully passed a driving test administered by an authorized third party;

(4) Certify that the motor vehicle in which the person takes the driving skills test is representative of the type of motor vehicle that person operates or expects to operate;

(5) Provide to the State of issuance the information required to be included on the CDL as specified in subpart J of this part;

(6) Certify that he/she is not subject to any disqualification, suspension, revocation, or cancellation as contained in §383.51 and that he/she does