

**§ 384.216**

(b) *Special rule for hazardous materials offenses.* If the offense under paragraph (a) of this section occurred while the driver was operating a vehicle transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (implementing regulations at 49 CFR 177.823), the State shall disqualify the person for no less than three years.

[59 FR 26039, May 18, 1994, as amended at 67 FR 49762, July 31, 2002]

**§ 384.216 Second offenses.**

(a) *General rule.* The State must disqualify for life from operating a CMV each person who is convicted, as defined in §383.5 of this subchapter, in any State or jurisdiction, of a subsequent offense as described in Table 1 to §383.51 of this subchapter.

(b) *Special rule for certain lifetime disqualifications.* A driver disqualified for life under Table 1 to §383.51 may be reinstated after 10 years by the driver's State of residence if the requirements of §383.51(a)(5) have been met.

[67 FR 49762, July 31, 2002]

**§ 384.217 Drug offenses.**

The State must disqualify from operating a CMV for life each person who is convicted, as defined in §383.5 of this subchapter, in any State or jurisdiction of a first offense, of using a CMV in the commission of a felony described in item (9) of Table 1 to §383.51 of this subchapter. The State shall not apply the special rule in §384.216(b) to lifetime disqualifications imposed for controlled substance felonies as detailed in item (9) of Table 1 to §383.51 of this subchapter.

[67 FR 49762, July 31, 2002]

**§ 384.218 Second serious traffic violation.**

The State must disqualify from operating a CMV for a period of not less than 60 days each person who, in a three-year period, is convicted, as defined in §383.5 of this subchapter, in any State(s) or jurisdiction(s), of two serious traffic violations as specified in Table 2 to §383.51.

[67 FR 49762, July 31, 2002]

**49 CFR Ch. III (10-1-05 Edition)**

**§ 384.219 Third serious traffic violation.**

The State must disqualify from operating a CMV for a period of not less than 120 days each person who, in a three-year period, is convicted, as defined in §383.5 of this subchapter, in any State(s) or jurisdiction(s), of three serious traffic violations as specified in Table 2 to §383.51. This disqualification period must be in addition to any other previous period of disqualification.

[67 FR 49762, July 31, 2002]

**§ 384.220 National Driver Register information.**

Before issuing a CDL to any person, the State shall, within the period of time specified in §384.232, perform the check of the National Driver Register in accordance with §383.73(a)(3)(iii) of this title, and, based on that information, promptly implement the disqualifications, licensing limitations, and/or penalties that are called for in any applicable section(s) of this subpart.

**§ 384.221 Out-of-service regulations (intoxicating beverage).**

The State shall adopt, and enforce on operators of CMVs as defined in §§383.5 and 390.5 of this title, the provisions of §392.5 (a) and (c) of this title in accordance with the Motor Carrier Safety Assistance Program as contained in 49 CFR part 350 and applicable policy and guidelines.

**§ 384.222 Violation of out-of-service orders.**

The State must have and enforce laws and/or regulations applicable to drivers of CMVs and their employers, as defined in §383.5 of this subchapter, which meet the minimum requirements of §§383.37(c), Table 4 to 383.51, and 383.53(b) of this subchapter.

[67 FR 49762, July 31, 2002]

**§ 384.223 Railroad-highway grade crossing violation.**

The State must have and enforce laws and/or regulations applicable to CMV drivers and their employers, as defined in §383.5 of this subchapter,

which meet the minimum requirements of §§ 383.37(d), Table 3 to 383.51, and 383.53(c) of this subchapter.

[67 FR 49762, July 31, 2002]

**§ 384.224 Noncommercial motor vehicle violations.**

The State must have and enforce laws and/or regulations applicable to drivers of non-CMV's, as defined in § 383.5 of this subchapter, which meet the minimum requirements of Tables 1 and 2 to § 383.51 of this subchapter.

[67 FR 49762, July 31, 2002]

**§ 384.225 Record of violations.**

The State must:

(a) *CDL holders.* Record and maintain as part of the driver history all convictions, disqualifications and other licensing actions for violations of any State or local law relating to motor vehicle traffic control (other than a parking violation) committed in any type of vehicle.

(b) *A person required to have a CDL.* Record and maintain as part of the driver history all convictions, disqualifications and other licensing actions for violations of any State or local law relating to motor vehicle traffic control (other than a parking violation) committed while the driver was operating a CMV.

(c) Make driver history information required by this section available to the users designated in paragraph (e) of this section, or to their authorized agent, within 10 days of:

(1) Receiving the conviction or disqualification information from another State; or

(2) The date of the conviction, if it occurred in the same State.

(d) Retain on the driver history record all convictions, disqualifications and other licensing actions for violations for at least 3 years or longer as required under § 384.231(d).

(e) Only the following users or their authorized agents may receive the designated information:

(1) *States*—All information on all driver records.

(2) *Secretary of Transportation*—All information on all driver records.

(3) *Driver*—Only information related to that driver's record.

(4) *Motor Carrier or Prospective Motor Carrier*—After notification to a driver, all information related to that driver's, or prospective driver's, record.

[67 FR 49762, July 31, 2002]

**§ 384.226 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 a parking violation) 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 another State.

[67 FR 49762, July 31, 2002]

**§§ 384.227–384.230 [Reserved]**

**§ 384.231 Satisfaction of State disqualification requirement.**

(a) *Applicability.* The provisions of §§ 384.203, 384.206(b), 384.210, 384.213, 384.215 through 384.219, 384.221 through 384.224, and 384.231 of this part apply to the State of licensure of the person affected by the provision. The provisions of § 384.210 of this part also apply to any State to which a person makes application for a transfer CDL.

(b) *Required action.* (1) *CDL holders.* A State must satisfy the requirement of this part that the State disqualify a person who holds a CDL by, at a minimum, suspending, revoking, or canceling the person's CDL for the applicable period of disqualification.

(2) *A person required to have a CDL.* A State must satisfy the requirement of this subpart that the State disqualify a person required to have a CDL who is convicted of an offense or offenses necessitating disqualification under § 383.51 of this subchapter. At a minimum, the State must implement the limitation on licensing provisions of § 384.210 and the timing and record-keeping requirements of paragraphs (c) and (d) of this section so as to prevent such a person from legally obtaining a CDL from any State during the applicable disqualification period(s) specified in this subpart.