

Felonies and the Implications for a Commercial Driver's License

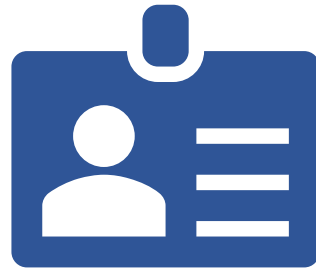
NTLCO

NATIONAL TRAFFIC LAW CENTER

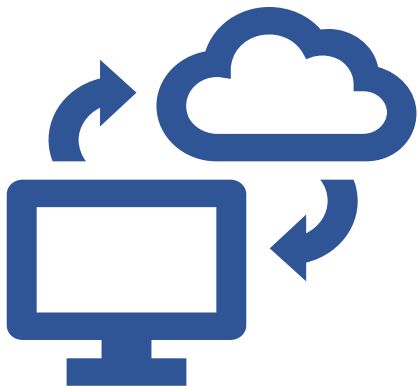




One Driver.



One
License.



One Record.

Learning Objectives:

- a. Identify the felonies that trigger CDL disqualification.
- b. Examine the role of prosecutors in ensuring felony convictions are recorded on CDL driving records.
- c. Analyze the consequences of CDL disqualification in felony cases.
- d. Enforce the necessity of the “One Driver-One License-One Record” concept with felonies and CDL disqualification.

National Judicial College Disqualification Benchmark



Why Is It Important To Hold CDL Holders Accountable?

- There is a higher level of training for CDL holders
- Expectations are higher and they know better.
- Lifetime disqualification tells us we've done everything we can to keep them off the road.



STATISTICS

- There were 4,014 fatalities due to large truck crashes 2020.
- 15% were truck occupants, 68% were occupants of cars and other passenger vehicles, 16% were pedestrians, bicyclists or motorcyclists.



STATISTICS

- In 2020, at least one driver-related factor was recorded for 32% of the large truck drivers in fatal crashes.



49 CFR § 383.51(b)(6)

- If a driver operates a motor vehicle and is **convicted** of...
- Using the vehicle to commit a **felony**



What is a
Felony?



18 U.S. Code § 3156(3)

Felony:

- an offense punishable by
- a **maximum term of imprisonment** of
- **more than one year**



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point of view.

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Conviction Defined

49 CFR 383.5

- An unvacated **adjudication of guilt**
- A determination that **a person has violated or failed to comply with the law** in a court of original jurisdiction **or an authorized administrative tribunal** (DMV)
- An unvacated **forfeiture of bail or collateral** deposited to secure a person's appearance in court
- A plea of **guilty or nolo contendere** (no contest) accepted by the court

Conviction Con't

- The **payment of a fine, or court cost** (fees imposed by a court [at the conclusion or as part of the final resolution of the case] intended to cover the court's expense of handling the case)
- A **violation of a condition of release without bail**, regardless of whether or not the penalty is rebated, suspended, or probated

Example: Failure to appear in court, failure to pay fine, and/or failure to comply with a court mandate

Examples of Felony Crimes That May Be Committed Using a Motor Vehicle:

- Kidnapping
- Domestic Violence Assault
- Receipt of Stolen Property
- Possession of a Felony Amount of a Controlled Substance
- Vehicular Homicide*
- Drug Trafficking*
- Human Trafficking*



49 CFR 383.51 Disqualification Statute

If a driver operates **ANY motor vehicle** and is convicted of ...

License consequences extend to CDL holders driving their **personal vehicles** as well.









Case Preparation

- Ask: Do I have **all pertinent license** and **vehicle** data?
- Make sure you are aware of **all citations**, both felony and traffic, associated with a case



Include language in the **indictment/ information** regarding:

- CDL status
- CDL License number
- Whether CDL driver was in a CMV
- Pertinent vehicle information
- Potential penalty for CDL driver (disqualification), if applicable



Trial Preparation

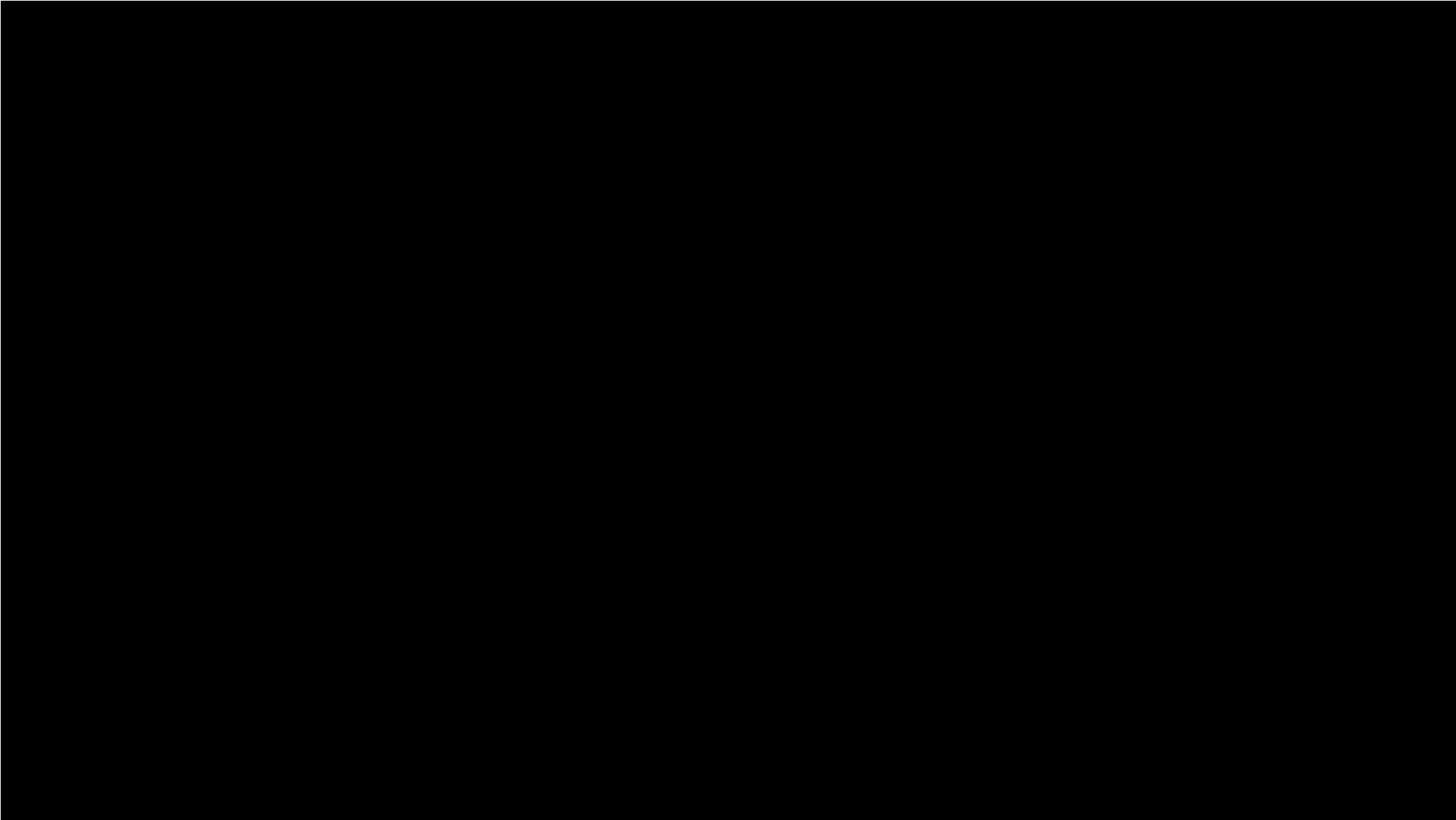
- Highlight the **facts** indicating **use of the motor vehicle in the commission of the felony**.
- Obtain **certified copies** of any **previous convictions** from other states prior to trial.



- The **prosecutor** should notify the **judge and court clerk in every courtroom involved** about any other citations and that the matter involves:
- Both a **CDL holder** and
- The use of a **motor vehicle**.



3



- The **prosecutor** should notify the **court clerks**:
- The charge, while **not** designated as a traffic offense by code,
- Involves **mandatory licensing disqualifications** that should be transmitted to the **SDLA**.



Disqualification

Disqualification means any of the following three actions:

- (1) The **suspension, revocation, or cancellation** of a **CLP or CDL** by the **State** or **jurisdiction of issuance**.
- (2) Any **withdrawal** of a person's **privileges** to drive a **CMV** by a **State or other jurisdiction** as the result of a **violation** of **State or local law** relating to **motor vehicle traffic control** (other than parking, vehicle weight or vehicle defect violations).

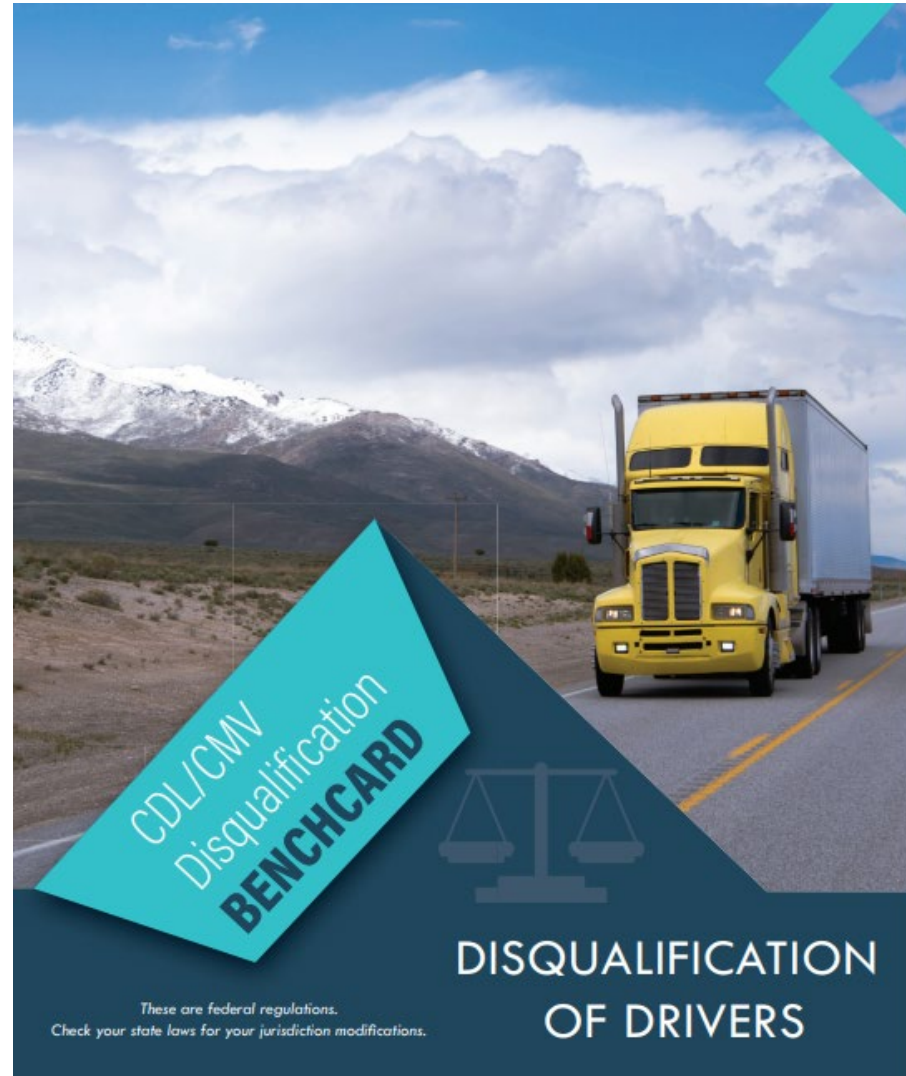
Disqualification

Disqualification means any of the following three actions:

(3) A **determination** by the **FMCSA** that a person is **not qualified** to operate a **commercial motor vehicle** under part 391 of this subchapter.



Disqualification



CDL/CMV
Disqualification
BENCHCARD

DISQUALIFICATION
OF DRIVERS

*These are federal regulations.
Check your state laws for your jurisdiction modifications.*



CDL Disqualification – 49 CFR § 383.51

- Table 1: Major Offenses
- Table 2: Serious Traffic Violations
- Table 3: Railroad Crossing Offenses
- Table 4: Out-of-Service Orders

49 CFR § 383.51, Table 1 (Felonies)

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...
(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
(9) Using the vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance	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
(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)	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

Using the Vehicle to Commit a Felony

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...
(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

Using the Vehicle – Trafficking Controlled Substances

<p>If a driver operates a motor vehicle and is convicted of:</p>	<p>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...</p>	<p>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...</p>	<p>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...</p>	<p>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...</p>	<p>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...</p>
<p>(9) Using the vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance</p>	<p>Life-not eligible for 10-year reinstatement</p>	<p>Life-not eligible for 10-year reinstatement</p>	<p>Life-not eligible for 10-year reinstatement</p>	<p>Life-not eligible for 10-year reinstatement</p>	<p>Life-not eligible for 10-year reinstatement</p>

Using a CMV – Severe Forms of Human Trafficking

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...
(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)	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

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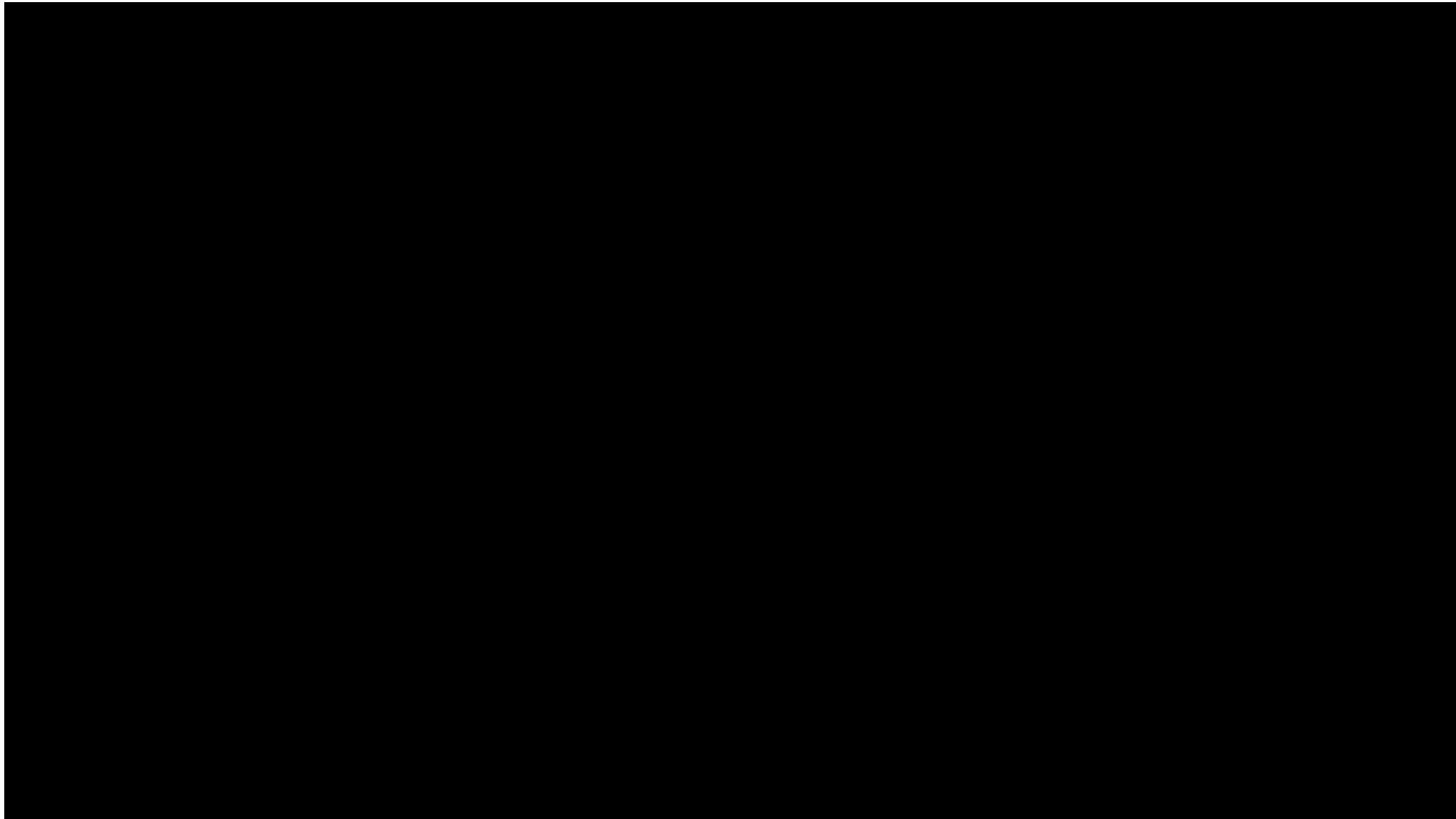
On-Demand Course: Human Trafficking and the Impact on Commercial Driver's Licenses

60-minute presentation

The National Traffic Law Center (NTLC) has created an education tool for prosecutors, law enforcement and other traffic safety professionals titled: "Human Trafficking and the Impact on Commercial Driver's Licenses." This on demand training module is designed to educate about the Federal "No Human Trafficking on Our Roads Act" (NHTRA) which was signed into law on January 1, 2018 by President Donald J. Trump. As a result of NHTRA, the Federal Motor Carrier Safety Administration (FMCSA) announced a final rule that imposes a lifetime ban on drivers who are convicted of a severe form of human trafficking in a commercial motor vehicle

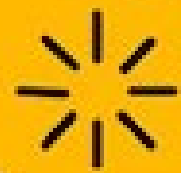
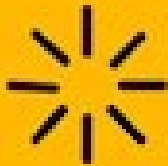


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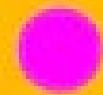




QUIZ



TIME!



Does this felony disqualify the CDL holder? If yes, for how long?

CDL holder convicted of felony domestic battery in non-CMV.

Answer: Yes. (6) Using the vehicle to commit a felony, other than a felony described in paragraph (b)(9) of this table. The CDL would be disqualified for one year.

Does this felony disqualify the CDL holder?

If yes, for how long?

CDL holder convicted of severe forms of human trafficking in a CMV.

Answer: Yes. (10) Using a CMV in the commission of a felony involving an act or practice of severe forms of trafficking in persons, as defined in 22 U.S.C. 7102(11). The CDL would be disqualified for a lifetime, not eligible for reinstatement.

Does this felony disqualify the CDL holder? If yes, for how long?

CDL holder convicted of drug trafficking in a non-CMV

Answer: Yes. (9) Using the vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance. The CDL would be disqualified for a lifetime, not eligible for reinstatement.

All links must work together to ensure the felony conviction makes it onto the CDL driver's record!



Between the Lines Article

- For the Between the Lines article covering this same topic, please scan this code.



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