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Are You Sharing Your Driver with Another Company?

How does the Federal Motor Carrier Safety Administration address the use of a driver by multiple employers?

Answer: Yes, this situation is addressed in a number of ways throughout the regulations; however, it is confusing. Drivers that work part time, fall into a number of classifications:

1. Drivers that work for multiple employers on a regular basis.
2. Drivers who are regularly employed by a motor carrier and occasionally

drive for another motor carrier.

3. An employee of a non-motor carrier and who occasionally or part time drives.

First let's look at the driver qualification process:

Multiple Employer Drivers

Multiple-employer driver means a driver, who in any period of 7 consecutive days, is employed or used as a driver by more than one motor carrier. This definition applies to a driver who regularly works part time for two or more employers.

If a motor carrier employs a person as a multiple-employer driver (as defined in §390.5 of this subchapter), the motor carrier shall comply with all requirements of this part, except that the motor carrier need not:

- Require the person to furnish an application for employment in accordance with §391.21;

- Make the investigations and inquiries specified in §391.23 with respect to that person;

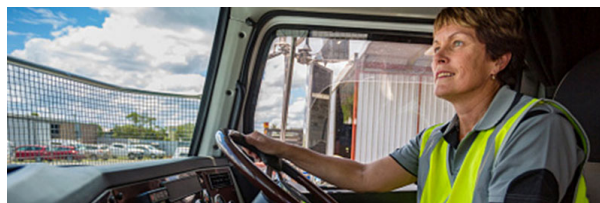
- Perform the annual driving record inquiry required by §391.25(a);

- (a)(4) Perform the annual review of the person's driving record required by §391.25(b); or

- (a)(5) Require the person to furnish a record of violations or a certificate in accordance with §391.27.

- (b) Before a motor carrier permits a multiple-employer driver to drive a commercial motor vehicle, the motor carrier must obtain his/her name, his/her social security number, and the identification number, type and issuing State of his/her commercial motor vehicle operator's license. The motor carrier must maintain this information for 3 years after employment of the multiple-employer driver ceases.

A driver who is regularly employed by a motor carrier and occasionally works for another motor carrier.



§391.65(a) A motor carrier may employ a driver who is not a regularly employed driver of that motor carrier without complying with the generally applicable driver qualification file requirements in this part, if:

The driver is regularly employed by another motor carrier; and

The motor carrier which regularly employs the driver certifies that the driver is fully qualified to drive a commercial motor vehicle in a written statement which—

- Is signed and dated by an officer or authorized employee of the regularly employing carrier;
- Contains the driver's name and signature;
- Certifies that the driver has been regularly employed as defined in §390.5;
- Certifies that the driver is fully qualified to drive a commercial motor vehicle under the rules in Part 391 of the Federal Motor Carrier Safety Regulations;
- States the expiration date of the driver's medical examiner's certificate;
- Specifies an expiration date for the certificate, which shall be not longer than 2 years or, if earlier, the expiration date of the driver's current medical examiner's certificate; and

A motor carrier that obtains a certificate in accordance with paragraph (a)(2) of this section shall:

- Contact the motor carrier which certified the driver's qualifications under this section to verify the validity of the certificate. This contact may be made in person, by telephone, or by letter.
- Retain a copy of that certificate in its files for three years.

A motor carrier which certifies a driver's qualifications under this section shall be responsible for the accuracy of the certificate. The certificate is no longer valid if the driver leaves the employment of the motor carrier which issued the certificate or is no longer qualified under the rules in this part.

An employee of a non-motor carrier who occasionally or part time drives for a motor carrier:

A person who drives for one motor carrier (even if it is only one day a month) would not meet the definition of an intermittent, casual, or occasional driver. The motor carrier must fully qualify the driver and maintain a qualification file as a regularly employed driver.

With all of that regulation said, it is still in the best interest of a motor carrier and the best liability protection to require all drivers regardless of employment status to complete a full qualification process with a complete file on each and every driver that operates a commercial motor vehicle.

Now, how does the Drug and Alcohol testing regulations address a shared driver?

Keep in mind that Drug and Alcohol regulations apply to drivers that operate commercial motor vehicles in excess 26,000 lbs GVWR or are transporting HM in placardable quantities or passengers.

Pre-employment testing: There is an exception to pre-employment testing found in CFR 382.301. However, there are many requirements to the exception and basically you are relying on the compliance of another motor carrier for your own compliance. As a better practice and your best liability protection, administer a Pre-employment Drug screen to all new drivers regardless of employment classification.

Random Testing: When a driver works for two or more employers, in whose random pool must the driver be included? **Answer:** *The driver must be in the pool of each employer for which the driver works.*

All other testing, post-accident, reasonable suspicion and follow-up testing would apply as any other driver.



And finally, how do the Hours of

Service regulations apply to shared drivers?

Drivers used by more than one motor carrier:

When the services of a driver are used by more than one motor carrier during any 24 hour period in effect at the driver's home terminal, the driver shall submit a copy of the record of duty status to each motor carrier. The record shall include:

- All duty time for the entire 24 hour period;
- The name of each motor carrier served by the driver during that period; and
- The beginning and finishing time, including a.m. or p.m., worked for each carrier.

Motor carriers, when using a driver for the first time or intermittently, shall obtain from the driver a signed statement giving the total time on duty during the immediately preceding 7 days and the time at which the driver was last relieved from duty prior to beginning work for the motor carriers.



FMCSA Drug & Alcohol Clearinghouse Query Plans Now Available for Purchase

Query plans are now available to purchase for employers of drivers requiring a commercial driver's license. The announcement comes two months



Preventing Driver Injuries in Fall and Winter

Slip/Trip and Fall injuries are the most common type of injury for drivers. Most of them occur during the winter months. Each year, thousands of professional drivers are seriously injured due to not paying attention in winter conditions.

before launch of the Federal Motor Carrier Safety Administration (FMCSA) Drug & Alcohol Clearinghouse on January 6, 2020.

Purchasing a query plan enables motor carriers and their designated consortia or third-party administrators to conduct queries for all current and potential new employees as required by §382.701.

Queries are electronic checks in the Clearinghouse used by carriers to learn if current or potentially future employees are prohibited from driving a commercial motor vehicle or performing other safety-sensitive functions due to an unresolved violation under Part 382.

The plans can only be purchased on the FMCSA Clearinghouse website by registered employers.

FMCSA will charge a flat fee of \$1.25 for every limited or full query and offer bundles depending on need, though the bundles do not offer a discount per query. Discounts per query are available if carriers purchase an unlimited bundle plan for \$24,500.

Driver Files Lawsuit Against CBD Oil Manufacturer for Failed Drug Test

A truck driver has filed a class action lawsuit against a manufacturer of CBD oil, claiming that the product caused the

Working in the ice and snow requires your full attention and awareness.

- Remember it is our primary goal that you go home to your family and friends the way you came to work today, safe and healthy.
- Always wear proper footwear. A full support leather shoe with a rugged non-slip sole. Use non-slip covers on shoe (Yak Trax, etc.)
- SLOW DOWN, never be in a hurry.
- Always watch where you walk. Snow can accumulate on top of ice in and around truck parking areas.
- Take small steps and check your footing with each step.
- Look for ice on all handrails and hand grabs before using them.
- ALWAYS use gloves for better grip.
- ALWAYS use three points of contacts when exiting/entering your tractor or trailer or getting on the cat walk behind the cab, ALWAYS.
- Always use your seat belt.
- SLOW DOWN! It's Winter!

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driver to fail a DOT drug test. Darrow v. Just Brands USA, Case No. 1:19-cv-07079; N.D. Ill., filed October 28, 2019.

The complaint alleges that the defendant advertised its products as containing no THC, the main psychoactive chemical in marijuana. The plaintiff ate some Just CBD watermelon gummy rings, and later tested positive on a DOT drug test and was terminated.

He filed suit under the Illinois Consumer Fraud and Deceptive Trade Practices Act on behalf of himself and all other persons similarly situated.

Safety Bulletin

Training Requirements of the Federal Motor Carrier Safety Administration (FMCSA)

September 27th, 2019

UPCOMING EVENTS

October 7th - 13th is Fire Prevention Week

National Fire Prevention Week is coming, and it is a good time to review with your drivers how to prevent fires and how to react to a fire that occurs in their commercial motor vehicle.

Fire extinguisher inspection is a vital part of a driver's daily vehicle inspection process. It ensures the fire extinguisher has had inspection due to a leak or was used and returned to the truck without being recharged. The actions of a driver at the time of a fire are critical in saving lives and controlling the amount of loss.

Register Now to Attend an Idealease/NPTC Safety Seminar this Fall!

DRIVING SAFETY THROUGH BUSINESS

of you have sent me emails you have received from consulting firms saying that you are required to have your supervisors of CDL drivers trained in Drug and Alcohol Reasonable Suspicion Testing. The emails are used as "scare" tactics to get you to purchase their supervisor training courses, webinars, etc. They are correct that your supervisors are required by Federal Motor Carrier Safety Administration (FMCSA), but the good news is that the FMCSA makes this training available to you at NO COST!!!

Let's look at what the regulations say about training of your supervisors of CDL drivers.

By the way, this applies to all motor carriers INTRA and INTER state.

SIGN UP FOR SAFETY BULLETINS

Email *

First Name *

Last Name *

Job Title *

Company *

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