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DOT Issues Waiver for CDL and CLP Holders

On March 20, 2020, the Federal Motor Carrier Safety Administration (FMCSA) issued a waiver of some regulations that apply to interstate and intrastate drivers that operate commercial motor vehicles. The waiver is scheduled to remain in effect until June 30, 2020.

The waiver was issued in response to COVID-19 outbreaks and covers holders of commercial driver's licenses (CDL) and commercial learner's permit (CLP) holders, as well as other interstate drivers operating commercial motor vehicles (CMVs). Because of the effects of COVID-19 and the risk presented to public health, safety and welfare, many states have high absence rates or closures of the agencies responsible for issuing driver licenses. Additionally, many medical providers have dedicated increasing resources to the COVID-19 response, resulting in widespread cancellation of scheduled appointments for physical examinations that are required for Federal Motor Carrier Safety Regulations (FMCSR) compliance. Because of these closures and cancellations and the difficulty for commercial drivers to renew expiring licenses and medical cards, this waiver was issued to temporarily ease those requirements. With the national emergency declaration under 42 U.S.C. § 5191(b), and the public need for transportation of supplies and equipment deemed essential for addressing the outbreaks, the public interest in issuing the waiver is great.

FMCSA Regulatory Provisions Waived

The waiver is designed to enable the continued transportation of goods in spite of the COVID-19 crisis and is in furtherance of the public interest. The waiver includes the following measures:

- Extends, until June 30, 2020, the eight (8) year from date of issuance maximum period of CDL validity by waiving 49 CFR 383.73(b)(9) and 383.73(d)(6) for CDLs due for renewal on or after March 1, 2020.

- Extends, until June 30, 2020, the maximum period of CLP validity by waiving 49 CFR 383.73(a)(2)(iii) and 383.25(c) for CLPs that are due for renewal on or after March 1, 2020, without requiring the CLP holders to retake the general and endorsement knowledge tests.
- Waives the requirement under 49 CFR 383.25(e) that CLP holders wait 14 days to take the CDL skills test.
- Waives the requirement under 49 CFR 391.45 that CDL holders, CLP holders, and non-CDL drivers have a medical examination and certification, provided that they have proof of a valid medical certification that was issued for a period of 90 days or longer and that expired on or after March 1, 2020.
- Waives the requirement under 49 CFR 383.71(h)(3) that, in order to maintain the medical certification status of “certified,” CDL or CLP holders provide the State Driver Licensing Agency with an original or copy of a subsequently issued medical examiner’s certificate, provided that they have proof of a valid medical certification that expired on or after March 1, 2020.
- Waives the requirement under 49 CFR 383.73(o)(2) that the State Driver Licensing Agency change the CDL or CLP holder’s medical certification status to “not certified” upon the expiration of the medical examiner’s certificate or medical variance, provided that the CDL or CLP holders have proof of a valid medical certification that expired on or after March 1, 2020.
- Waives the requirements under 49 CFR 383.73(o)(4) that the State Driver Licensing Agency initiate a CDL or CLP downgrade upon the expiration of the medical examiner’s certificate or medical variance, provided that the CDL or CLP holders have proof of a valid medical certification or medical variance that expired on or after March 1, 2020.
- In accordance with 49 CFR 383.23(a)(1) and 391.41(a)(1)(i), FMCSA continues to recognize the validity of commercial driver’s licenses issued by Canadian Provinces and Territories and Licencias Federales de Conductor issued by the United Mexican States, in accordance with 49 CFR part 383, when

such jurisdictions issue a similar notice or declaration extending the validity date of the medical examination and certification and/or validity of the corresponding commercial driver's license due to interruption to government service resulting from COVID-19

There is no further action required by covered drivers to obtain the benefits of this waiver, nor will a finding of noncompliance be issued against states for any conduct or policy consistent with this waiver.

Terms, Conditions and Restrictions of the Waiver

The waiver does not come without restrictions. The following are important exceptions to the waiver and are important to keep in mind when considering whether or not the new policies are applicable to each driver in your fleet. The waiver covers states, CDL holders, CLP holders and interstate non-CDL CMV drivers for the period beginning at 12:01 a.m. (ET) on March 20, 2020, continuing through 11:59 p.m. on June 30, 2020, and provides the following caveats and exceptions:

- The waiver does not apply to a CDL or CLP holder if the driver's license expired before March 1, 2020.
- The waiver does not apply to a CDL or CLP holder if the driver's privileges have been suspended or withdrawn for traffic offenses.
- Drivers claiming relief from the requirement for a valid medical certificate under the waiver must have proof of a valid medical certificate that expired on or after March 1, 2020 and carry a paper copy of their expired medical certificates.
- Drivers who cannot produce evidence of a prior medical certification that expired on or after March 1, 2020 are not covered under this waiver, including new drivers who have never obtained a medical certification.
- Drivers who, since their last medical certificate was issued, have been diagnosed with a medical condition that would disqualify the driver from operating in interstate commerce, or who, since their last medical certificate was issued, have developed a condition that requires an exemption or Skill

Performance Evaluation from FMCSA are not covered under this waiver.

- This waiver does not apply to medical examiner's certificates originally issued for less than 90 days.
- Each motor carrier must notify FMCSA within 5 business days of an accident (as defined in 49 CFR 390.5), involving any CDL holder, CLP holder, or non-CDL driver operating under the terms of this waiver. See 49 CFR 390.15(b) (requiring maintenance of accident registry.) Notification shall be by email to MCPSD@DOT.GOV. The notification must include the following information:
 - Date of the accident;
 - City or town, and state, in which the accident occurred, or which is closest to the accident scene;
 - Driver's name and license number;
 - Vehicle number and state license number;
 - Number of individuals suffering physical injury;
 - Number of fatalities;
 - The police-reported cause of the accident (if available at time of the report); and
 - Whether the driver was cited for violation of any traffic laws, or motor carrier safety regulations.
- FMCSA reserves the right to revoke this waiver for drivers' involvement in accidents, motor carriers' failure to report accidents, and drivers' failure to comply with the restrictions of this waiver.

Full text of the [FMCSA's waiver](#).

For more information please contact [Michael Case](#), [Eric Baker](#), or any attorney in Frost Brown Todd's [Mobility & Transportation Industry Team](#).

To provide guidance and support to clients as this global public-health crisis unfolds, Frost Brown Todd has created a [Coronavirus Response Team](#). Our attorneys are on hand to answer your questions and provide guidance on

***how to proactively prepare for and manage any coronavirus-related threats
to your business operations and workforce.***

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