COMMERCIAL MOTOR VEHICLE (CMV) ENFORCEMENT

POLICY:

To view Louisiana Statutes: [http://www.legis.state.la.us/](http://www.legis.state.la.us/)

**AUTHORITY**
R.S. 32:414.2
R.S. 32:668
49 CFR 383.51

**DEFINITION**
Louisiana law provides for the disqualification of Commercial Motor Vehicle (CMV) driving privileges for certain violations while operating a CMV in this or any other state or in any foreign jurisdiction. The disqualification is imposed regardless of the license class held at the time of the violation or if the individual had no driver's license at all.

- **Disqualification** -- A disqualification will only disqualify the CMV driving privileges. A disqualification means the individual cannot operate a CMV during the disqualification period.
- **Suspension** -- A suspension suspends all driving privileges regardless of the type of vehicle being operated. This means the individual cannot operate any vehicle (personal or CMV) during the suspension period.
- **Separate Incident** -- Separate incidents are noted as violations with different violation dates or the same violation date from different courts.
- **Same Incident** -- The same incident is noted when violations have the same violation date and are from the same court.

**VIOLATIONS**

**Serious CMV Violations:**
- Speeding 15 or above
- Following too closely
- Reckless Operations
- Improper / erratic lane change
- Fatal accident violation
- Driving a CMV without proper Class / Endorsements
- Driving a vehicle without first obtaining a CDL
- Driving a CMV without a CDL or CLP in the driver's possession
- Texting while driving a CMV

**Railroad - Highway Grade Crossing Violations:**
- Railroad crossing restriction
- Railroad traffic control device or enforcement official
- Failure to slow down when not required to always stop
- Failure to stop when tracks are not clear
- Stopping before clearing railroad grade crossing
- Insufficient undercarriage clearance
- Failure to stop
Out-of-Service Violations:
- Violating a driver or vehicle out-of-service order while transporting non hazardous materials or hazardous materials required to be placarded
- Operating a vehicle designed to transport 18 or more passengers, including the driver

Down-grade - If an operator is "disqualified only" and there are no suspensions or revocations on the driving record, he may continue to drive a personally owned vehicle by down-grading his operator's license from a Class A, B or C license or CLP to a Class D or E license. In this case, a reinstatement fee is not collected until the disqualification period has been served.

MAJOR DISQUALIFYING VIOLATIONS
A one year disqualification period is imposed if the operator (holding a Class A, B or C driver's license or CLP) is convicted of one of the following violations while driving a CMV or a private vehicle. A three year disqualification period is imposed if the violation / conviction involve hauling hazardous materials.
- DWI
- Submit BAC .04 (In a CMV Only)
- Submit BAC .08 or above (In a CMV or non-CMV)
- Refusal (In a CMV or non-CMV)
- Felony (In a CMV or non-CMV)
- Leaving the scene (hit and run) (In a CMV or non-CMV)

A one year disqualification period is imposed if the operator is convicted of one of the following violations:
- Negligent homicide
- Vehicular homicide
- Manslaughter
- Violation of revocation - driving a CMV while disqualified for previous violations in a CMV. Convictions and withdrawals will be assessed by the State of Record.
- A three year disqualification period is imposed for any of the above, if the violation / conviction involve hauling hazardous materials.

NOTE: A LIFETIME disqualification is imposed if an operator is convicted of two major disqualifying violations

FELONY DISQUALIFYING VIOLATIONS
Any felony conviction involving the manufacture, distribution or dispensing of a controlled substance or possession with intent to manufacture, distribute or dispense a controlled substance while operating a CMV or while hauling hazardous materials requires a lifetime disqualification period.

The provisions of the Code of Criminal Procedures (Articles 691, 892.1, 893, 894, and pre-trial diversion/pre-trial intervention) cannot be applied to any conviction that would result in a disqualification or in a subsequent disqualification or any conviction in a CMV as this is considered masking. This includes 'Serious Offenses,' 'Railroad Offenses,' 'Out-of-Service Offenses' and 'Major Offenses' as specified in this policy. These convictions are added to the driving record as guilty convictions and become a part of the driving record. Any required disqualification remains in effect for the duration of the disqualification period and the reinstatement fee is collected.

When a Refusal or Submit results in a disqualification, the disqualification for the Refusal or Submit remains in effect for the duration of the disqualification period and the reinstatement fee is collected, regardless of the disposition of the DWI. Act 605 is not applied to the disqualification of the Refusal or Submit resulting from the same occurrence.
EMINENT HAZARD (FMCSA 383.52, R.S. 32:414.2)
Federal Motor Carrier Safety Administration will notify OMV when an eminent hazard violation is to be placed on the driver's record. The violation is immediately added to the driver's record which disqualifies the driver for an indefinite period and will not be reinstated until FMCSA notifies OMV.

ARTICLE 894 - CODE OF CRIMINAL PROCEDURE
The provisions of the Code of Criminal Procedure do not apply to CMV violations/convictions.

H, X AND S ENDORSEMENT
- If a driver with an “H” endorsement receives a second conviction of any combination of reckless and/or negligent violations, the hazmat "H" endorsement will be permanently revoked. Once the hazmat endorsement is removed, it cannot be added back in Louisiana.
- If a driver with an "X" endorsement receives a second conviction of any combination of reckless and/or negligent violations, the "X" endorsement will be permanently revoked. The driver may, however, keep his tank "N" endorsement. Once the hazmat endorsement is removed, it cannot be added back in Louisiana.
- If a driver with an "S" endorsement receives a DWI or Refusal while operating any vehicle, the "S" endorsement will be revoked for ten (10) years.

REINSTATEMENT REQUIREMENTS
The reinstatement fee and SR22 requirements for disqualifications and suspensions are the same.

<table>
<thead>
<tr>
<th>Violation</th>
<th>Fee</th>
<th>SR22 Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>DWI 1st</td>
<td>$100.00</td>
<td>SR22 Required</td>
</tr>
<tr>
<td>DWI 2nd</td>
<td>$200.00</td>
<td>SR22 Required</td>
</tr>
<tr>
<td>DWI 3rd</td>
<td>$300.00</td>
<td>SR22 Required</td>
</tr>
<tr>
<td>Refusal</td>
<td>$50.00</td>
<td>SR22 Required</td>
</tr>
<tr>
<td>Other Disqualifications</td>
<td>$60.00</td>
<td></td>
</tr>
</tbody>
</table>

If both a suspension and a disqualification (for the same violation) are imposed, only one reinstatement fee shall be collected.

The reinstatement fee is to be collected, as follows:
- if disqualified only, at the end of the disqualification period.
- if suspended and disqualified, at the end of the suspension period even if the disqualification is still in effect.
- if downgraded to a (Class D or E) and eligible for a hardship license, at the time the hardship license is issued.

If disqualified only and down-grading from a Class A, B, or C or CLP to a Class D or E, the reinstatement fee is not collected until the disqualification is served.

HARDSHIP
- A driver cannot be issued a hardship license (Class A, B, or C) to operate a CMV during a disqualification/suspension period.
- However, if eligible for a hardship license (Class D or E) the driver may downgrade from a Class A, B, or C or CLP to a Class D or E, and be issued a hardship license to continue to drive a personally owned vehicle.
RELATED POLICIES
SECTION II 6.00- ARTICLE 894 CODE OF CRIMINAL PROCEDURE
6.01- ACT 605