



< [390](#) | [392](#) >

Part 391

QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS



Section [Guidance](#)

§ 391.15: Disqualification of drivers.

(a) **General.** A driver who is disqualified shall not drive a commercial motor vehicle. A motor carrier shall not require or permit a driver who is disqualified to drive a commercial motor vehicle.

(b) **Disqualification for loss of driving privileges.** (1) A driver is disqualified for the duration of the driver's loss of his/her privilege to operate a commercial motor vehicle on public highways, either temporarily or permanently, by reason of the revocation, suspension, withdrawal, or denial of an operator's license, permit, or privilege, until that operator's license, permit, or privilege is restored by the authority that revoked, suspended, withdrew, or denied it.

(2) A driver who receives a notice that his/her license, permit, or privilege to operate a commercial motor vehicle has been revoked, suspended, or withdrawn shall notify the motor carrier that employs him/her of the contents of the notice before the end of the business day following the day the driver received it.

(c) **Disqualification for criminal and other offenses** —(1) **General rule.** A driver who is convicted of (or forfeits bond or collateral upon a charge of) a disqualifying offense specified in paragraph (c)(2) of this section is disqualified for the period of time specified in paragraph (c)(3) of this section, if—

(i) The offense was committed during on-duty time as defined in § 395.2(a) of this partsubchapter or as otherwise specified; and

(ii) The driver is employed by a motor carrier or is engaged in activities that are in furtherance of a commercial enterprise in interstate, intrastate, or foreign commerce.;

(2) **Disqualifying offenses.** The following offenses are disqualifying offenses:

(i) Driving a commercial motor vehicle while under the influence of alcohol. This shall include:

(A) Driving a commercial motor vehicle while the person's alcohol concentration is 0.04 percent or more;

(B) Driving under the influence of alcohol, as prescribed by State law; or

(C) Refusal to undergo such testing as is required by any State or jurisdiction in the enforcement of § 391.15(c)(2)(i) (A) or (B), or § 392.5(a)(2).

(ii) Driving a commercial motor vehicle under the influence of a 21 CFR 1308.11 **Schedule I** identified controlled substance, an amphetamine, a narcotic drug, a formulation of an amphetamine, or a derivative of a narcotic drug;

(iii) Transportation, possession, or unlawful use of a 21 CFR 1308.11 **Schedule I** identified controlled substance, amphetamines, narcotic drugs, formulations of an amphetamine, or derivatives of narcotic drugs while the driver is on duty, as the term on-duty time is defined in § 395.2 of this subchapter;

(iv) Leaving the scene of an accident while operating a commercial motor vehicle; or

(v) A felony involving the use of a commercial motor vehicle.

Scope of the rules in this part; additional qualifications; duties of carrier-drivers.

§ 391.2

General exceptions.

§ 391.11

General qualifications of drivers.

§ 391.13

Responsibilities of drivers.

§ 391.15

Disqualification of drivers.

§ 391.21

Application for employment.

(3) **Duration of disqualification** —(i) **First offenders.** A driver is disqualified for 1 year after the date of conviction or forfeiture of bond or collateral if, during the 3 years preceding that date, the driver was not convicted of, or did not forfeit bond or collateral upon a charge of an offense that would disqualify the driver under the rules of this section. Exemption. The period of disqualification is 6 months if the conviction or forfeiture of bond or collateral solely concerned the transportation or possession of substances named in paragraph (c)(2)(iii) of this section.

(ii) **Subsequent offenders.** A driver is disqualified for 3 years after the date of his/her conviction or forfeiture of bond or collateral if, during the 3 years preceding that date, he/she was convicted of, or forfeited bond or collateral upon a charge of, an offense that would disqualify him/her under the rules in this section.

(d) **Disqualification for violation of out-of-service orders** —
(1) **General rule.** A driver who is convicted of violating an out-of-service order is disqualified for the period of time specified in paragraph (d)(2) of this section.

(2) **Duration of disqualification for violation of out-of-service orders** —(i) **First violation.** A driver is disqualified for not less than 90 days nor more than one year if the driver is convicted of a first violation of an out-of-service order.

(ii) **Second violation.** A driver is disqualified for not less than one year nor more than five years if, during any 10-year period, the driver is convicted of two violations of out-of-service orders in separate incidents.

(iii) **Third or subsequent violation.** A driver is disqualified for not less than three years nor more than five years if, during any 10-year period, the driver is convicted of three or more violations of out-of-service orders in separate incidents.

(iv) **Special rule for hazardous materials and passenger offenses.** A driver is disqualified for a period of not less than 180 days nor more than two years if the driver is convicted of a first violation of an out-of-service order while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (49 U.S.C. 5101 *et seq.*), or while operating commercial motor vehicles designed to

transport more than 15 passengers, including the driver. A driver is disqualified for a period of not less than three years nor more than five years if, during any 10-year period, the driver is convicted of any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, or while operating commercial motor vehicles designed to transport more than 15 passengers, including the driver.

(e) Disqualification for violation of prohibition of texting while driving a commercial motor vehicle—

(1) **General rule.** A driver who is convicted of violating the prohibition of texting in § 392.80(a) of this chapter is disqualified for the period of time specified in paragraph (e)(2) of this section.

(2) **Duration.** Disqualification for violation of prohibition of texting while driving a commercial motor vehicle—

(i) **Second violation.** A driver is disqualified for 60 days if the driver is convicted of two violations of § 392.80(a) of this chapter in separate incidents during any 3-year period.

(ii) **Third or subsequent violation.** A driver is disqualified for 120 days if the driver is convicted of three or more violations of § 392.80(a) of this chapter in separate incidents during any 3-year period.

(f) Disqualification for violation of a restriction on using a hand-held mobile telephone while driving a commercial motor vehicle —

(1) **General rule.** A driver who is convicted of violating the restriction on using a hand-held mobile telephone in § 392.82(a) of this chapter is disqualified from driving a commercial motor vehicle for the period of time specified in paragraph (f)(2) of this section.

(2) **Duration.** Disqualification for violation of a restriction on using a hand-held mobile telephone while driving a commercial motor vehicle—

(i) **Second violation.** A driver is disqualified for 60 days if the driver is convicted of two violations of § 392.82(a) of this chapter in separate incidents committed during any 3-year period.

(ii) **Third or subsequent violation.** A driver is disqualified for 120 days if the driver is convicted of three or more violations of § 392.82(a) of this chapter in separate incidents committed during any 3-year period.

Citation: [37 FR 24902, Nov. 23, 1972, as amended at 49 FR 44215, Nov. 5, 1984; 51 FR 8200, Mar. 10, 1986; 53 FR 18057, May 19, 1988; 53 FR 39051, Oct. 4, 1988; 54 FR 40788, Oct. 3, 1989; 59 FR 26028, May 18, 1994; 60 FR 38744, 38745, July 28, 1995; 62 FR 37152, July 11, 1997; 63 FR 33277, June 18, 1998; 75 FR 59136, Sept. 27, 2010; 76 FR 75487, Dec. 2, 2011; 77 FR 1891, Jan. 12, 2012; 78 FR 58483, Sept. 24, 2013]

Disclaimer:

Although we make every effort to assure that the information we provide is complete and accurate, it is not intended to take the place of published agency regulations. Regulations issued by the U.S. Department of Transportation and its Operating Administrations are published in the Federal Register and compiled in the U.S. Code of Federal Regulations (CFR). Copies of appropriate volumes of the CFR in book format may be purchased from the Superintendent of Documents, [U.S. Government Printing Office](http://www.gpoaccess.gov), or examined at many libraries.

The CFR may also be viewed online at <http://ECFR.gpoaccess.gov>.