

Notice to State Drivers Licensing Agencies of the Federal Motor Carrier Safety Administration's Policy Regarding Effect of Actions during COVID-19 Emergency

Under the provisions of 49 U.S.C. § 31311(a), the Commercial Motor Vehicle Safety Act of 1986 sets forth the requirements for States to participate in the commercial driver's license (CDL) program. Under 49 U.S.C. § 31312, the Federal Motor Carrier Safety Administration (FMCSA) has the authority to decertify States found to be in substantial non-compliance with the requirements of 49 U.S.C. § 31311(a) from issuing CDLs. Under 49 U.S.C. § 31314, as implemented through 49 CFR Part 384, if, during FMCSA's annual review of a State's compliance with 49 U.S.C. § 31311(a), a State is found to be in substantial non-compliance, FMCSA shall withhold amounts from a State's apportionment of Title 23 Federal-aid Highway funding beginning the first fiscal year following the first fiscal year of substantial non-compliance.

Ensuring that commercial driver's license holders are available to operate commercial motor vehicles during the national emergency declared by the President under 42 U.S.C. § 5191(b) related to Coronavirus Disease 2019 (COVID-19) is critical to the safety of the transportation and energy supply networks and the economic stability of our Nation. This notice sets forth the Agency's view of various actions State Drivers Licensing Agencies (SDLA) may exercise during the emergency relating to COVID-19 for which FMCSA would decline to issue a finding or make a determination of substantial non-compliance.

Question 1: Will FMCSA determine a State to be in substantial non-compliance or issue a finding under 49 CFR Part 384 if the State extends a Commercial Learner's Permit (CLP) or Commercial Driver's License (CDL) that would otherwise expire during the COVID-19 emergency?

Answer 1: No, provided that the State promptly brings its practices back into compliance with 383 and 384 after the national emergency related to COVID-19 ends or when the SDLA resumes normal operations.

Under 383.73(a)(2)(iii) and 383.25(c) a CLP may be valid for up to one year from the date of issuance. Under 383.73(b)(9) and (d)(6) an initial or renewed CDL may be valid up to 8 years from the date of issuance. If a State extends the expiration dates for CDLs or CLPs because the facilities that issue those licenses have been closed or have restricted access or extends those dates for individuals who are unable to access those facilities because of COVID-19 concerns and this extension causes the CDL or CLP to be valid longer than provided in the Federal regulations, FMCSA will not use those extensions as a basis for issuing a finding against the State or for a determination that the State is in substantial non-compliance.

However, the State is expected to promptly bring its CDL and CLP issuance practices back into conformance with the requirements of 383 and 384 as soon as the national emergency ends or the State is once again able to issue CLPs and CDLs that conform to the regulatory requirements, whichever is sooner.

The States should contact the Transportation Security Administration (TSA) for direction on how to handle Hazardous Materials (HM) Endorsements that are expiring. Questions can be directed to: HME.Question@tsa.dhs.gov.

Question 2: May a State renew a CDL/CLP online?

Answer 2: Yes. The CDL regulations do not prohibit State Drivers Licensing Agencies (SDLAs) from providing online renewals. The State of Record (SOR) must continue to adhere to all requirements for renewals, as outlined in Parts 383 and 384, such as checking the Commercial Driver's License Information System.

Question 3: Will FMCSA determine a State to be in substantial non-compliance or issue a finding if a State does not change the medical certification status to "not certified" or downgrade a CDL/CLP holder whose Medical Examiner's Certificate has expired during the COVID-19 emergency?

Answer 3: No. If a State does not change the medical certification status to "not certified" or downgrade a CDL or CLP driver whose Medical Examiner's Certificate has expired during the national emergency related to COVID-19, as required by 49 CFR 383.73(o), FMCSA will not issue a finding or use that action as a basis for determining the State to be in substantial non-compliance. However, the State is expected to promptly bring its CDL and CLP medical certification status and downgrade practices back into conformance as soon as the national emergency ends or when the SDLA resumes normal operations.