



**Motor Carrier Attachment**

**Texas DPS Part 382 Controlled Substances and Alcohol Use and Testing**

**Monaville, Texas December 17, 2021**

**HWY22FH002**

**(22 pages)**



Texas Highway Patrol Division  
**Commercial Vehicle Enforcement**

## Part 382 - Controlled Substances and Alcohol Use and Testing

### Applicability (382.103)

Drivers required to have a CDL are subject to the controlled substance and alcohol testing rules. This requirement extends to those drivers currently covered by the rule, including interstate and intrastate truck and motor coach operations.

Exemptions from other parts of federal safety regulations do not apply to CDL and drug/alcohol testing. For example, each of the following types of operation must still comply with all CDL and drug/alcohol testing rules.

- Federal, State, local, and tribal governments (except from other rules under 390.3(f))
- Private Motor Carriers of passengers, including church and civic organizations (except from Hours of Service Record Keeping under 395, 8(a))
- Apiarian (Beekeeping) industries (except from Driver Qualifications rules under 391.2(b))

### Exemptions

- Drivers exempt from CDL requirements by their issuing State
- Active duty military personnel

### Types Of Alcohol And Controlled Substance Tests (Sections 382.301-382.311)

**Pre-employment (382.301):** No employer shall allow a driver to perform a safety-sensitive function until they have received a negative controlled substance pre-employment test result.

**Post-Accident (382.303):** As soon as practicable following an accident involving a CMV each employer shall test for alcohol and controlled substances each surviving driver:

- Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- Who receives a citation under State or local law for a moving traffic violation arising from the accident, if the accident involved:
  - ◆ Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
  - ◆ One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

Type of Accident	Citation Issued to CMV driver:	Test must be performed by employer:
Human Fatality	Yes _____	Yes
	No _____	Yes
Bodily injury with immediate medical treatment away from the scene	Yes _____	Yes
	No _____	No
Disabling damage to any motor vehicle requiring tow away	Yes _____	Yes
	No _____	No

**Random (382.305):** Companies must randomly test drivers at a minimum annual percentage rate of 10% of the number of drivers for alcohol testing, and 50% of the number of drivers for controlled substances testing. The random alcohol test must be performed immediately prior, during or immediately after a driver is about to, or has performed a safety-sensitive function as defined in Section 382.107. All drivers must have an equal chance of being selected.

The Selection Method for Random Testing (382.305(i)): Motor carriers shall select drivers for random testing using a **scientifically valid method**, such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. All drivers must have an equal chance of being selected. **Drawing slips of paper from a container IS NOT SCIENTIFICALLY VALID.**

Each employer shall ensure that random tests conducted under this part are unannounced and that the dates for administering random tests are spread reasonably throughout the calendar year.

**Reasonable Suspicion (382.307)**: An employer shall require a driver to submit to an alcohol and/or controlled substance test when the employer has reasonable suspicion to believe that the driver has violated the prohibitions concerning alcohol and/or controlled substances. The employer's determination that reasonable suspicion exists to require the driver to undergo an alcohol and/or controlled substances test must be based on specific, contemporaneous observations concerning the appearance, behavior, speech or body odors of the driver. A supervisor or company official who is trained in accordance with Section 382.603 shall make the required observations.

**Return-to-Duty (382.309 and Part 40, Subpart O)**: Each employer shall ensure that before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by subpart B of Part 382, the driver shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 and/or the driver shall undergo a return-to-duty controlled substances test with a result indicating a verified negative result for controlled substances use. **NOTE**: A return to duty test is not valid unless the driver has first complied with education and/or treatment prescribed by a Substance Abuse Professional (40.305). A driver must be directly observed when submitting a sample for a return to duty test. (40.67(b)).

**Follow-up (382.311 and Part 40, Subpart O)**: If a Substance Abuse Professional determines that a driver needs assistance for the misuse of alcohol, or for use of a controlled substance, an employer must ensure that the driver is subject to follow-up testing. A minimum of six tests must be conducted in the first 12 months, and the driver may only be subject to this test for a maximum of 60 months. A driver must be directly observed when submitting a sample for a follow-up test. (40.67(b)).

## **Retention of Records (382.401)**

### **Five Years:**

- Alcohol test results indicating a Breath Alcohol Concentration (BAC) of 0.02 or greater.
- Verified positive drug test results
- Driver evaluation and referrals
- Refusals to submit to required alcohol and drug tests
- Calibration Documentation
- Records related to the administration of the alcohol and controlled substances testing programs, and
- A copy of each annual calendar year summary required by §382.403 (You will be notified by FMCSA if you are required to create/maintain this).

### **Three Years:**

- Information from previous employers concerning drug and alcohol test results of employees. (391.23)

### **Two Years:**

- Records related to the alcohol and controlled substances collection process (except calibration of breath testing equipment), and
- Records of required training of collection personnel shall be kept during the time the individual performs these functions, and for two years afterwards.

### **One Year:**

- Negative and canceled controlled substance test results
- Alcohol test results indicating a BAC of less than 0.02

### **Access to Records (382.405)**

All required records shall be maintained in a secure location with controlled access, and shall be made available for inspection by an authorized representative of the FMCSA.

### **Inquiries To Previous Employers (382.413 and 40.25)**

A motor carrier shall inquire about the following information on a driver from the driver's previous employers for a period of two years preceding the driver's date of application. You must obtain the driver's written authorization first. You may not allow anyone who refuses to give written authorization to operate a commercial motor vehicle.

- Alcohol tests with a result of 0.04 alcohol concentration or greater;
- Verified positive controlled substances test results; and
- Refusals to be tested; and
- Other violations of DOT Agency drug and alcohol testing regulations and with respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests)

### **Employer Obligation To Promulgate a Policy (382.601)**

(a) *General requirements.* Each employer shall provide educational materials that explain the requirements of this part and the employer's policies and procedures with respect to meeting these requirements.

- (1) The employer shall ensure that a copy of these materials is distributed to each driver prior to the start of alcohol and controlled substances testing under this part and to each driver subsequently hired or transferred into a position that requires driving a commercial motor vehicle.
- (2) Each employer shall provide written notice to representatives of employee organizations of the availability of this information.

(b) *Required content.* The materials to be made available to drivers shall include detailed discussion of at least the following:

- (1) The identity of the person designated by the employer to answer driver questions about the materials;
- (2) The categories of drivers who are subject to the provisions of this part;
- (3) Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the work day the driver is required to be in compliance with this part;
- (4) Specific information concerning driver conduct that is prohibited by this part;
- (5) The circumstances under which a driver will be tested for alcohol and/or controlled substances under this part, including post-accident testing under 382.303(d);
- (6) The procedures that will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver, including post-accident information, procedures and instructions required by 382.303(d) of this part;
- (7) The requirement that a driver submit to alcohol and controlled substances tests administered in accordance with this part;
- (8) An explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the attendant consequences;
- (9) The consequences for drivers found to have violated subpart B of this part, including the requirement that the driver be removed immediately from safety-sensitive functions, and the procedures under Part 40, Subpart O, of this title;
- (10) The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04;

- (11) Information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem (the driver's or a co-worker's); and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and or referral to management.
- (c) *Optional provision.* The materials supplied to drivers may also include information on additional employer policies with respect to the use of alcohol or controlled substances, including any consequences for a driver found to have a specified alcohol or controlled substances level, that are based on the employer's authority independent of this part. Any such additional policies or consequences must be clearly and obviously described as being based on independent authority.
- (d) *Certificate of receipt.* Each employer shall ensure that each driver is required to sign a statement certifying that he or she has received a copy of the materials described in this section. Each employer shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver.

### **Supervisor Training (382.603)**

All persons designated to supervise drivers receive a minimum of 60 minutes of training on alcohol misuse and an additional 60 minutes of training on controlled substances use. The supervisor will use this training to determine whether reasonable suspicion exists to require a driver to undergo testing under Section 382.307.

### **Reports of Valid Positive Results on Alcohol and Drug Tests (37 TAC 4.21)**

- (a) Reporting Requirement. An employer required under the federal safety regulations to conduct alcohol and controlled substance testing of employees shall report to the department a valid positive result on an alcohol or controlled substance test performed as part of the carrier's alcohol and drug testing program or consortium, as defined by Title 49, Code of Federal Regulations, Part 382, on an employee of the carrier who holds a commercial driver license issued under Texas Transportation Code, Chapter 522.
- (1) The report must be submitted by employers within 10 days of receiving notice of a valid positive result on an alcohol or drug test performed.
- (2) Report Submission Requirements.
- (A) The report must be submitted on a form prescribed by the department that is available at the following Internet web site address: <http://www.txdps.state.tx.us/forms>. All information requested on the form must be completed. The completed form must be mailed to MCS Section Supervisor, Motor Carrier Bureau, Texas Department of Public Safety, 6200 Guadalupe, MSC# 0521, Austin, Texas 78752-4019, or sent by facsimile to (512) 424-5310. Unless the report is for a refusal to submit a sample, employers must also attach a legible copy of either the Federal Drug Testing, Custody and Control Form (with at least steps one through six completed), the U.S. Department of Transportation (DOT) Alcohol Testing Form (with at least steps one through three completed), or the Medical Review Officer's or Breath Alcohol Technician's report of a positive, diluted, adulterated, or substituted alcohol or drug test.
- (B) Any requestor who has obtained permission to request and receive release of information via electronic mail under subsection (b)(2) of this section may also submit reports via electronic mail. The complete report must be filled out in its entirety, and must be clearly scanned with attachments as described in paragraph (2)(A) of this subsection.
- (3) When a valid positive result is obtained on an owner-operator, that owner-operator is responsible for submission of the Report of Valid Positive Drug or Alcohol test to the department.
- (4) A Medical Review Officer, Breath Alcohol Technician, laboratory, consortium, or other individuals may submit a Report of Valid Positive Drug or Alcohol Test to the department. Reports by laboratories or other individuals will only be entered in the department's database when verified by the Medical Review Officer or Breath Alcohol Technician.
- (5) A dilute positive drug test under Title 49, Code of Federal Regulations, Part 40.197(a) is a valid positive result. A dilute negative drug test is not a valid positive test. A positive drug test from a recollection under Title 49, Code of Federal Regulations, Part 40.197(b) is a valid positive test.
- (b) Release of Information. Information regarding Reports of Valid Positive Drug or Alcohol Tests is con-

fidential and only subject to release as provided in Texas Transportation Code, 521.053. A request must be submitted on a form prescribed by the department that is available at the following Internet web site address: <http://www.txdps.state.tx.us/forms>.

- (1) The request form must be mailed to MCS Section Supervisor, Motor Carrier Bureau, Texas Department of Public Safety, 6200 Guadalupe, MSC# 0521, Austin, Texas 78752-4019, or sent by facsimile to (512) 424-5310.
- (2) A requester may apply for and obtain permission to request and receive release of information via electronic mail. Electronic mail addresses are subject to initial and continuing verification by the department. A request must be submitted on a form prescribed by the department that is available at the following Internet web site address: <http://www.txdps.state.tx.us/forms>. Once a requester has obtained permission to request and receive information via electronic mail, each individual request must still be made with a clearly scanned copy of the form described in subsection (b) of this section and be in compliance with the requirements of Texas Transportation Code, §521.053.
- (c) A valid positive test result under §4.22 of this title (relating to Contract Carriers of Certain Passengers) must be reported and maintained in the same manner as reports under subsection (a) of this section. Such information may only be released in the same manner as described in subsection (b) of this section.



# REPORT OF VALID POSITIVE RESULT ON ALCOHOL TEST UNDER TRC 644.252



<b>A. ID</b>	NAME OF MOTOR CARRIER		DATE OF ALCOHOL TEST	
	NAME OF INDIVIDUAL TESTED	SOCIAL SECURITY NUMBER	CDL NUMBER & STATE	BIRTHDATE

<b>B. CERTIFICATION OF BREATH ALCOHOL TECHNICIAN</b>	<p>By signing below, I, the Breath Alcohol Technician (BAT) certify the following:</p> <p>1. I am the BAT for the alcohol testing program or consortium of the motor carrier listed above.</p> <p>2. I am qualified under 49 CFR 40.213 to act as a BAT.</p> <p>3. This individual is subject to a report of a valid positive result of an alcohol test under TRC §644.252 because:</p> <p><input type="checkbox"/> The individual tested positive on an alcohol screening test, and tested at a _____ level on an alcohol confirmation test. <b>NOTE:</b> If the confirmation test results are below 0.04, do not submit this report.</p> <p><input type="checkbox"/> The individual refused to submit to testing by:</p> <p><input type="checkbox"/> Failing to submit a specimen of sufficient amount to test, without medical reason</p> <p><input type="checkbox"/> Refusing to submit a specimen</p> <p><input type="checkbox"/> Refusing to cooperate with the specimen collection process or submit to follow-up testing or evaluation</p> <p>4. I followed the alcohol testing procedures required by 49 CFR parts 40 and 382 (or other parts applicable to CDL holders) applicable to the BAT. I conducted the confirmation alcohol test properly, and ensured that the results of the screening and confirmation tests (and additional results, if any) were affixed to the Alcohol Testing form. I forwarded the results to the Designated Employer Representative after:</p> <p><input type="checkbox"/> The individual submitting the sample signed the Alcohol Testing form in Step 4; or</p> <p><input type="checkbox"/> The individual tested refused to sign the Alcohol Testing form in Step 4, and I noted that refusal in the "REMARKS" section of Step 3 of the Alcohol Testing form.</p> <p><b>I further certify that I have reviewed my records and that the information contained in this certificate is true and correct to the best of my knowledge.</b></p>			
	PRINTED NAME	SIGNATURE <b>X</b>		
ADDRESS	CITY	STATE	ZIP	

<b>C. CERTIFICATE OF MOTOR CARRIER</b>	<p>By signing below, I, the authorized representative of the Motor Carrier listed above, certify the following:</p> <p>1. The Motor Carrier listed above:</p> <p><input type="checkbox"/> Has an in-house drug and alcohol testing program that meets the federal requirements of 49 CFR Parts 40 and 382 (or other parts applicable to CLD holders); <b>OR</b></p> <p><input type="checkbox"/> Is a member of a consortium, as defined in 49 CFR 382.107, that provides drug and alcohol testing that meets the federal requirements of 49 CFR Parts 40 and 382 (or other parts applicable to CDL holders).</p> <p><b>NAME OF CONSORTIUM:</b> _____</p> <p>2. The individual tested is subject to alcohol testing by the Motor Carrier, and was tested for the following reason:</p> <p><input type="checkbox"/> Random <input type="checkbox"/> Reasonable Suspicion <input type="checkbox"/> Post-Accident <input type="checkbox"/> Return to Duty <input type="checkbox"/> Follow-up <input type="checkbox"/> Pre-employment</p> <p><input type="checkbox"/> Other _____; <b>AND</b></p> <p><input type="checkbox"/> Had a 0.04 or more breath alcohol level under 49 CFR Parts 40 and 382 (or other parts applicable to CDL holders) (<b>NOTE:</b> a copy of the federal Alcohol Testing form must be provided, with the screening and confirmation test results included or affixed to the federal Alcohol Testing form); <b>OR</b></p> <p><input type="checkbox"/> Refused to submit to an alcohol test (<b>NOTE:</b> BAT certification is not required)</p> <p><b>I further certify that I have reviewed the motor carrier's records and that the information contained in this certificate is true and correct to the best of my knowledge.</b></p>			
	PRINTED NAME OF DESIGNATED MOTOR CARRIER REPRESENTATIVE		TELEPHONE NUMBER	
	ADDRESS			
	SIGNATURE OF DESIGNATED MOTOR CARRIER REPRESENTATIVE <b>X</b>	CITY	STATE	ZIP

DELIVER OR MAIL THIS FORM AND ANY ATTACHMENTS TO THE MCS SUPERVISOR, MOTOR CARRIER BUREAU, TEXAS DEPARTMENT OF PUBLIC SAFETY, 6200 GUADALUPE, MSC #0521, AUSTIN, TX 78752-4019, OR FAX LEGIBLE COPY TO 512/424-5310. MCS-19 (Rev. 9/10)

## INSTRUCTIONS FOR THE COMPLETION OF THE REPORT OF POSITIVE ALCOHOL TEST UNDER TRC 644.252

### TO THE BREATH ALCOHOL TECHNICIAN (BAT)

1. You must complete parts A & B of this form, including an original signature in Part B.
2. You must attach a copy of the Alcohol Testing form with Steps 1 through 4 completed. If the employee refuses to sign in Step 4, you must note that in the REMARKS section of Step 3. The results of the screening test and the confirmation test must be printed on or affixed to the copy of the Alcohol Testing form attached to the Report of Positive Alcohol Test Under TRC 644.252.
3. If this report is completed on a self-employed driver, deliver or mail this form, along with the supporting documents, to MCS Section Supervisor, Motor Carrier Bureau, Texas Department of Public Safety, 6200 Guadalupe, MSC #0521, Austin, Texas 78752-4019. **Legible copies only** may be sent by facsimile to 512/424-5310.
4. Retain a copy of this form and the completed Alcohol Testing form.
5. Please forward your report to the carrier (or to the department if the carrier is an owner-operator) within **five** days of completing the test results.

### TO THE MOTOR CARRIER

1. Obtain documentation from the BAT
  - a. **If the specimen tested positive, or was diluted, adulterated or substituted**, inform the BAT who verified the positive alcohol test result that he/she must complete and sign the "Certification of Breath Alcohol Technician" section, and provide you with either a copy of the Federal Drug Testing Custody and Control form with Step 6 completed, or a report form on the BAT's letterhead and bearing the BAT's signature showing the result of the test. A report on the BAT's letterhead must contain a statement that the BAT complied with 40 CFR Parts 40 and 382 (or other parts applicable to CDL holders).
  - b. **If the donor refused to provide a specimen**, you do not need documentation from the BAT.
2. After receiving the completed "Certification of Breath Alcohol Technician" section and supporting documents, you must complete and sign the "Certificate of Motor Carrier" section.
3. You must attach a legible copy of the completed federal Alcohol Testing form with the screening and confirmation test results included or affixed.
4. Deliver or mail this form and the supporting documentation to: MCS Section Supervisor, Motor Carrier Bureau, Texas Department of Public Safety, 6200 Guadalupe, MSC #0521, Austin, Texas 78752-4019. **Legible copies only** may be sent by facsimile to 512/424-5310.
5. Retain a copy of this form and the completed Alcohol Testing form in the Motor Carrier records as required by 49 CFR Parts 40 and 382 (or other parts applicable to CDL holders).
6. You must forward this report to the department within **ten** days of receiving the completed test results.





# INSTRUCTIONS FOR THE COMPLETION OF THE REPORT OF POSITIVE DRUG TEST UNDER TRC 644.252

## TO THE MEDICAL REVIEW OFFICER (MRO)

1. You must complete parts A & B of this form, including an original signature in Part B.
2. You must attach a copy of the Federal Drug Testing Custody and Control form with Step 6 completed, or a report form on your letterhead and bearing your signature showing the result of the test. A report on your letterhead must contain a statement that you complied with 49 CFR Parts 40 and 382 (or other parts applicable to CDL holders) in verifying the results.
3. If this form is completed on a self-employed driver, deliver or mail this form, along with the supporting documents, to MCS Section Supervisor, Motor Carrier Bureau, Texas Department of Public Safety, 6200 Guadalupe, MSC #0521, Austin, Texas 78752-4019. **Legible copies only may be sent by facsimile to 512/424-5310.**
4. Retain a copy of this form and the Federal Drug Testing, Custody and Control form and/or the MRO's report of positive controlled substance result.
5. Please forward your report to the carrier (or to the department if the carrier is an owner-operator) within **five** days of completing the test results.

## TO THE MOTOR CARRIER

1. Obtain documentation from the MRO
  - a. **If the specimen tested positive, or was diluted, adulterated or substituted**, inform the MRO who verified the positive drug test result that he/she must complete and sign the "Certification of Medical Review Officer" section, and provide you with either a copy of the Federal Drug Testing Custody and Control form with Step 6 completed, or a report form on the MRO's letterhead and bearing the MRO's signature showing the result of the test. A report on the MRO's letterhead must contain a statement that the MRO complied with 40 CFR Parts 40 and 382 (or other parts applicable to CDL holders).
  - b. **If the donor refused to provide a specimen**, you do not need documentation from the MRO.
2. After receiving the completed "Certification of Medical Review Officer" section and supporting documents, you must complete and sign the "Certificate of Motor Carrier" section.
3. You must attach a legible copy of the signed MRO's report or the Federal Drug Testing, Custody and Control form or the MRO's signed report of positive controlled substance result.
4. Deliver or mail this form and the supporting documentation to: MCS Section Supervisor, Motor Carrier Bureau, Texas Department of Public Safety, 6200 Guadalupe, MSC #0521, Austin, Texas 78752-4019. **Legible copies only may be sent by facsimile to 512/424-5310.**
5. Retain a copy of this form and the Federal Drug Testing, Custody and Control form and/or the MRO's report of positive controlled substance result in the Motor Carrier records as required by 49 CFR Parts 40 and 382 (or other parts applicable to CDL holders).
6. You must forward this report to the department within **ten** days of receiving the completed test results.



# RELEASE OF CDL HOLDER'S REPORTED POSITIVE ALCOHOL OR CONTROLLED SUBSTANCE TEST RESULTS



**Use this form to obtain the CDL holder's reported positive alcohol or controlled substance test results information.**

This form should ONLY be used if you wish to inquire whether or not a prospective driver (CDL Holder) has had a positive alcohol or controlled substance test result reported to the Texas Department of Public Safety in compliance with state law.

**THIS FORM IS NOT REQUIRED FOR REPORTING A POSITIVE ALCOHOL OR CONTROLLED SUBSTANCE TEST.**

1. This form must be completed in full and include the driver's original signature.

**Texas Department of Public Safety  
Motor Carrier Bureau, MSC #0521  
6200 Guadalupe, Building P  
Austin, Texas 78752-4019**

2. Deliver, mail or FAX the completed form to:

**Facsimile: 512-424-5310**

I, \_\_\_\_\_, \_\_\_\_\_  
Print Name of CDL Holder

of \_\_\_\_\_, \_\_\_\_\_  
Print Address of CDL Holder

authorize release of the CDL holder's reported positive alcohol or controlled substance test results reported under state law

to \_\_\_\_\_, \_\_\_\_\_  
Print Name

of \_\_\_\_\_, \_\_\_\_\_  
Print Address

Driver License Number \_\_\_\_\_ State \_\_\_\_\_ Date of Birth \_\_\_\_\_

Signature of Driver

Date

**X**

**If you wish to request and receive this information by electronic mail, submit a completed and notarized Electronic Mail Verification Form (MCS-32), available at the following web address:  
<http://www.txdps.state.tx.us/forms/index.htm>.**



## Part 383 - Commercial Driver License

The licensing provisions in Part 383 and Texas Transportation Code Chapter 522 are intended to help reduce accidents by setting standards that:

- Require commercial drivers to be properly qualified and to hold a single valid CDL; and
- Disqualify drivers who do not operate CMV safely.

Note: Texas has not explicitly adopted Part 383, and will not enforce violations of Part 383. Its provisions, however, are applicable to interstate trips, and may affect whether an intrastate driver has proper qualifications under Part 391, which Texas has adopted. The Texas CDL provisions in Texas Transportation Code Chapter 522 are similar to Part 383.

Beginning September 1, 2009, when a vehicle is loaded so that the vehicle and the load weight exceeds any weight limit listed in this Chapter, the applicable CDL will be required to operate that vehicle even if the GVWR or GCWR is below the weight limit.

## Classes of Commercial Driver's License (TRC §522.041)

### Class A CDL

Any combination of vehicles with a gross combination weight rating (GCWR) of 26,001 pounds or more, if the gross vehicle weight rating (GVWR) of the towed vehicle or vehicles exceeds 10,000 pounds.

- GVWR means the value specified by the manufacturer as the loaded weight of a single vehicle. TEX. TRANSP. CODE §522.003.
- GCWR means the value specified by the manufacturer as the loaded weight of a combination or articulated vehicle or, if the manufacturer has not specified a value, the sum of the gross vehicle weight rating of the power unit and the total weight of the towed unit or units and any load on a towed unit. TEX. TRANSP. CODE §522.003.

### Class B CDL

Any single vehicle with a gross vehicle weight rating of 26,001 pounds or more, a single vehicle with a gross vehicle weight rating of 26,001 pounds or more towing a vehicle with a gross vehicle weight rating of 10,000 pounds or less, and a vehicle designed to transport 24 passengers or more, including the driver.

### Class C CDL

Any single vehicle or combination of vehicles that is not a Class A or Class B if the vehicle is designed to transport 16 - 23 passengers, including the driver; or used in the transportation of hazardous materials that require placards under 49 CFR, Part 172

## Endorsements (TRC §522.042, 37 Texas Administrative Code 16.12)

In addition to general knowledge and skills tests, drivers who operate specialized CMVs must pass additional tests and obtain endorsements on their CDLs, as follows:

- T – Double/triple trailers (knowledge test only)
- P – Passenger (knowledge and skills tests)
- N – Tank vehicle (knowledge test only)
- H – Hazardous materials (knowledge test only)
- X – Combination of tank vehicle and hazardous materials (knowledge tests)
- S – School bus – (knowledge and skills test)

## Age Requirements

- Interstate: Minimum age for a CDL is 21 (391.11(b)(1))
- Intrastate: Minimum age for a CDL is 18 (TRC 522.027)

## Persons Exempted from Texas CDL Requirements (TRC 522.004)

- Farmer/Rancher or his employee operating a vehicle that would be classified as a CMV and is:
  - Controlled and operated by a farmer or his employee;
  - Used to transport agricultural products, farm machinery or farm supplies to and from a farm
  - Not used in the operation of a contract or common carrier; and
  - Used within 150 air miles of the person's farm or ranch.
- Persons operating firefighting or emergency vehicles necessary for the preservation of life and property.
- Military personnel operating military vehicles.
- Persons operating recreational vehicles for personal use.
- A person operating a vehicle owned, leased or controlled by an air carrier and that is operated exclusively at the premises of an airport.
- A vehicle used exclusively to transport seed cotton modules or cotton burrs.

## Texas CDL Restrictions (37 TAC 16.11)

**L** – vehicles without air brakes. This restriction applies only to vehicles requiring a commercial driver license (CDL). The licensee is restricted to operating a commercial motor vehicle (CMV) which does not have air brakes.

**M** – CDL intrastate commerce only. The licensee is restricted to operating a CMV in intrastate commerce only and may not drive in interstate commerce.

**P** – Personal Restrictions. The licensee is restricted to operating a motor vehicle as per the restriction stated on the driver license.

**Y** – Valid Texas vision or limb waiver required.

**Z** – Valid Federal vision, limb, or diabetes waiver required.

## Texas Vision and Limb Waivers (37 TAC 16.9 and 16.14)

The Department may provide a waiver for a person who is otherwise disqualified under Title 49, Code of Federal Regulations, Part 391.41(b)(1), (b)(2) or (b)(10), FOR INTRASTATE DRIVING ONLY, provided that the intrastate driver meets the vision or limb waiver standards as set by this Department. For further information, you may call the Department's DLD - Enforcement Compliance Section, at 512-424-2600.

The Department MAY NOT provide a waiver under Title 49, Code of Federal Regulations, Part 391.41(b)(1), (b)(2) or (b)(10) for an interstate driver.

## Air Brake Restrictions (TRC 522.043(a)(1) & 37 TAC 16.11(b))

If an applicant fails the air brake section of the knowledge test, or performs the skills test in a vehicle not equipped with air brakes, his/her CDL, if issued, will indicate that the license holder may not operate any CMV equipped with air brakes.

### **Notification to Employer and Licensing State (Part 383.31 and TRC 522.061)**

Upon conviction for any State or local traffic violation, a driver must notify his/her employer(s) within 30 days. This notification must be in writing and must include the following information:

- Driver's full name
- Driver's license number
- Date of conviction
- Details about the offense, including any resulting suspension, revocation, or cancellation of driving privileges
- Indication of whether the violation happened in a CMV
- Location of offense, and
- Driver's signature.

### **Disqualifying Offenses (Part 383.51 and TRC 522.081 and TRC 522.081)**

No employer shall knowingly allow, require, permit, or authorize a disqualified driver to drive a CMV. Disqualifying offenses include:

- Driving a CMV while under the influence of alcohol.
- Driving a CMV while under the influence of a disqualifying drug or other controlled substance.
- Leaving the scene of an accident that involves a CMV.
- Using a CMV to commit a felony.
- Two serious traffic violations occurring within a three-year period.
- Violations of law that regulates the operation of a motor vehicle at a railroad grade crossing
- Driving a CMV while the person's alcohol concentration was 0.04% or more.
- Refusing to submit to a test to determine the person's alcohol concentration or the presence in the person's body of a controlled substance.
- Causing the death of another person through the negligent or criminal operation of a CMV.
- Driving a CMV while the person's CDL is revoked, suspended, canceled or disqualified, for an action or conduct that occurred while operating a CMV.

**Table 1 to Sec. 383.51**

If a driver operates a motor vehicle and is convicted of:	For a first conviction or refusal to be tested while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for	For a first conviction or refusal to be tested while operating a non-CMV, a CDL holder must be disqualified from operating a CMV for	For a first conviction or refusal to be tested while operating a CMV transporting hazardous materials required to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F), a person required to have a CDL and CDL holder must be disqualified from operating a CMV for	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a non-CMV, a CDL holder must be disqualified from operating a CMV for
(1) Being under the influence of alcohol as prescribed by State law.	1 year.	1 year.	3 years.	Life.	Life.
(2) Being under the influence of a controlled substance.	1 year.	1 year.	3 years.	Life.	Life.
(3) Having an alcohol concentration of 0.04 or greater while operating a CMV.	1 year.	Not applicable.	3 years.	Life.	Not applicable.
(4) Refusing to take an alcohol test as required by a State or jurisdiction under its implied consent laws or regulations as defined in § 383.72 of this part.	1 year.	1 year.	3 years.	Life.	Life.
(5) Leaving the scene of an accident.	1 year.	1 year.	3 years.	Life.	Life.
(6) Using the vehicle to commit a felony, other than a felony described in paragraph (b)(9) of this table.	1 year.	1 year.	3 years.	Life.	Life.

If a driver operates a motor vehicle and is convicted of:	For a first conviction or refusal to be tested while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for	For a first conviction or refusal to be tested while operating a non-CMV, a CDL holder must be disqualified from operating a CMV for	For a first conviction or refusal to be tested while operating a CMV transporting hazardous materials required to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F), a person required to have a CDL and CDL holder must be disqualified from operating a CMV for	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a non-CMV, a CDL holder must be disqualified from operating a CMV for
(7) Driving a CMV when, as a result of prior violations committed operating a CMV, the driver's CDL is revoked, suspended, or canceled, or the driver is disqualified from operating a CMV.	1 year.	Not applicable.	3 years.	Life.	Not applicable.
(8) Causing a fatality through the negligent operation of a CMV, including but not limited to the crimes of motor vehicle manslaughter, homicide by motor vehicle and negligent homicide.	1 year.	Not applicable.	3 years.	Life.	Not applicable.
(9) Using the vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance.	Life-not eligible for 10-year reinstatement.	Life-not eligible for 10-year reinstatement.	Life-not eligible for 10-year reinstatement.	Life-not eligible for 10-year reinstatement.	Life-not eligible for 10-year reinstatement.



## **Commercial Driver License Medical Certification Requirement (37 TAC 16.41)**

Beginning March 5, 2012, all commercial drivers are required to complete a self-certification affidavit (CDL-7)

When applying for or renewing a Texas commercial driver license. If you are required to maintain a USDOT medical examiner's certificate, you must also present a copy of the certificate. If you have a medical variance, you must submit that as well.

When filling out the self certification affidavit (CDL-7) you must select the type of commerce in which you operate.

- ▶ Interstate non-excepted: You are an interstate non-excepted driver and must meet the Federal DOT medical card requirements.
- ▶ Interstate excepted: You are an interstate excepted driver and do not have to meet the Federal DOT medical card requirements.
- ▶ Intrastate non-excepted: You are an intrastate non-excepted driver and are required to meet the DOT medical requirements.
- ▶ Intrastate excepted: You are an intrastate excepted driver and do not have to meet the DOT medical requirements.

Failure to keep a current DOT medical examiners certificate (and variance, if applicable) on file with DPS will result in the downgrade of your commercial driver license. Any time you are issued a new medical examiners certificate you are required to send the new certificate and the CDL-7, to the Department within 15 days of the DOT medical certificate issuance date.

### **Form Submission**

If you do not currently need to visit a driver license office to apply for or renew you CDL, you may submit your self-certification affidavit and if applicable, DOT medical examiner's certificate and medical variance, one of the following ways:

By email to: [CDLMedCert@dps.texas.gov](mailto:CDLMedCert@dps.texas.gov) (must be in PDF form)

By fax to: (512)-424-2002  
Texas Department of Public Safety  
Enforcement and Compliance Service  
Attention: CDL Section

By mail to: Texas Department of Public Safety  
Enforcement and Compliance Service  
Attention: CDL Section  
PO Box 4087  
Austin, TX. 78773



# Texas Commercial Driver License Self-Certification Affidavit



Federal Regulations along with the State of Texas Administrative Rules require a commercial driver to certify in one of the 4 categories listed below to determine if a medical certificate is required. If you select category one (1) or three (3), you must present a valid medical certificate.

<b>Last Name</b>	<b>First Name</b>	<b>Middle Name</b>	<b>Maiden Name</b>
<b>Driver License Number</b>	<b>Birth Date</b>	<b>Social Security Number</b>	

I certify my commercial transportation is:

- Category 1. Non-excepted Interstate. I operate or expect to operate in interstate commerce, am both subject to and meet the qualification requirements under 49 CFR part 391, and am required to obtain a medical examiner's certificate by § 391.45. **(CDL-4, CDL-10 box 7, medical certificate is required)**
- Category 2. Excepted Interstate. I operate or expect to operate in interstate commerce, but engage exclusively in transportation or operations excepted under 49 CFR 390.3(f), 391.2, 391.68 or 398.3 from all or parts of the qualification requirements of 49 CFR part 391. **(CDL-10)**
- Category 3. Non-Excepted Intrastate. I operate or expect to operate in intrastate commerce, and am subject to the physical qualifications of 49 CFR Part 391. **(CDL-5 part b, medical certificate is required)**
- Category 4. Excepted Intrastate. I operate or expect to operate in intrastate commerce, and engage exclusively in transportation or operations that exempt me from meeting the medical standards of 49 CFR Part 391. **(CDL-5 part a, CDL-10 box 10 or box 11)**

**I certify that I have read, understand and meet the above checked categories for a commercial driver license.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Please email, fax, or mail the medical certificate (if applicable) and the Self-Certification affidavit to:

**Email (pdf format only):** [CDLMedCert@dps.texas.gov](mailto:CDLMedCert@dps.texas.gov)

**Fax:** 512-424-2002

**Mail:** Texas Department of Public Safety

Enforcement & Compliance Service

Attention: CDL Section

P.O. Box 4087

Austin, Texas 78773

CDL-7 (00-0112)

**General Information**  
**A Guide for Commercial Driver's License (CDL) Holders**  
**New Medical Certification Requirements**

All CDL holders must provide a Self-Certification affidavit (CDL-7) no later than January 30, 2014 to the Department identifying the type of commercial motor vehicle operation in which they plan to operate. CDL holders operating in non-excepted interstate and non-excepted intrastate will be required to submit a current medical examiner's certificate and any variance they may have to the Department. Drivers who are required to have a medical examiners certificate and fail to maintain a current medical certificate with the Department may lose their CDL.

**1) What is changing?** Texas will now collect your medical certificate information at the time of your commercial driver license transaction.

**2) What is not changing?** The driver physical qualification requirements will not change.

**3) When does this change start?** This change begins March 5, 2012.

**4) What are CDL holders required to do?**

1. You must determine the type of commerce in which you operate and self-certify to one of the following four categories (see list below).

- **Interstate non-excepted:** You are an Interstate non-excepted driver and must meet the Federal DOT medical card requirements (e.g. – you are “not excepted”).
- **Interstate excepted:** You are an Interstate excepted driver and do not have to meet the Federal DOT medical card requirements.
- **Intrastate non-excepted:** You are an Intrastate non-excepted driver and are required to meet the DOT medical requirements.
- **Intrastate excepted:** You are an Intrastate excepted driver and do not have to meet the DOT medical requirements.

2. If you are subject to the Department of Transportation (DOT) medical card requirements, provide a copy of each new DOT medical card to the Department prior to the expiration of the current DOT medical card.

**5) How do you determine the type of commerce in which you plan to operate?** Read the information for DOT medical certificate requirements located at <http://www.txdps.state.tx.us/DriverLicense/medCertReq.htm>.

**6) How can you comply with the new requirements?** If you are applying for a new commercial driver license, or plan on renewing or obtaining a replacement before January 30, 2014, be sure to bring your DOT medical card if you have one, when you come to your local driver license office.

If you are a current commercial driver license holder and do not need to renew or obtain a replacement before January 30, 2014, print and complete a copy of the self-certification form (CDL-7) located on our website, and mail, fax, or email the self-certification form to the contact information below. If you are required to maintain a DOT medical certificate, be sure to send a copy of that and any variance you may have along with the Self-Certification affidavit.

**7) What if you have renewed your DOT medical certificate since the last time you sent one in to the Department?** To prevent your commercial driver license from being downgraded, you will need to send a copy of the new DOT medical certificate to the Department within 15 days of the DOT medical certificate issuance date.

**8) How to submit your medical certificates?**

Self-Certification affidavits (CDL-7) and DOT medical certificate information can be submitted to the Department through one of the following:

**Mail:** Texas Department of Public Safety  
Enforcement & Compliance Service  
Attention: CDL Section  
PO Box 4087  
Austin, Texas 78773

**Fax:** 512-424-2002/Attention: CDL Section

**Email:** [CDLMedCert@dps.texas.gov](mailto:CDLMedCert@dps.texas.gov) (Must be in pdf format)

CDL-7 (00-0112)

## QUALIFICATIONS OF INTRASTATE DRIVER CERTIFICATION AND EXEMPTION

CDL-5 (Rev. 11/02)

All information on this form except the signature must be TYPEWRITTEN or PRINTED in BLACK INK.  
The signature shall be WRITTEN in BLACK INK.

LAST NAME	FIRST NAME	MIDDLE NAME	MAIDEN NAME	
DRIVER LICENSE NUMBER	BIRTH DATE			SOCIAL SECURITY NUMBER
	MO.	DAY	YEAR	AGE NOW

In order to obtain a commercial driver license which authorizes the operation of a commercial motor vehicle in intrastate commerce, you must certify to and meet the following qualifications as taken from 49 Code of Federal Regulations (CFR), Part 391, and the Texas Transportation Code, Chapter 522.

Intrastate commerce is the transportation of property (a commodity) where the point of origin and destination are totally within one state and no state line or international boundary is crossed. The Bill of Lading will be an indicator as to whether a shipment or commodity is interstate or intrastate. If there is no Bill of Lading, the origin and destination of the shipment will be an indicator.

I certify that I:

- a. Am at least 18 years of age
- b. Am not disqualified to drive a motor vehicle.

I further certify that I: (check the appropriate box)

- a. Am a driver who operates a commercial motor vehicle in intrastate commerce, not transporting property requiring a hazardous material placard, and was regularly employed operating a commercial motor vehicle in Texas prior to August 28, 1989 and am not required to meet the medical standards set forth in the Federal Motor Carrier Safety Regulations.

Drivers who claim this exemption and who are seeking to obtain or maintain employment as a school bus driver must undergo and pass an annual physical examination as required by V.C.S. Article 6687b, Section 5(a), recodified as Texas Transportation Code Ann., Section 521.022 (1996).

- b. Meet the physical qualifications of 49 CFR, Part 391, as follows:
1. Have no loss of a foot, a leg, a hand, or an arm, or have been granted a waiver;
  2. Have no impairment of:
    - i. A hand or finger which interferes with prehension or power grasping; or
    - ii. An arm, foot, or leg which interferes with the ability to perform normal tasks associated with operating a motor vehicle; or any other significant limb defect or limitation which interferes with the ability to perform normal tasks associated with operating a motor vehicle; or have been granted a waiver.
  3. Have no established medical history or clinical diagnosis of diabetes melitus currently requiring insulin for control;
  4. Have no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure.
  5. Have no established medical record history or clinical diagnosis of a respiratory dysfunction likely to interfere with my ability to control and drive a motor vehicle safely;
  6. Have no current clinical diagnosis of high blood pressure likely to interfere with my ability to operate a motor vehicle safely;
  7. Have no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease which interferes with my ability to control and operate a motor vehicle safely;
  8. Have no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a motor vehicle;
  9. Have no mental, nervous, organic, or functional disease or psychiatric disorder likely to interfere with my ability to drive a motor vehicle safely;
  10. Have distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision at least 70° in the horizontal Meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber; or have been granted a waiver.

(OVER)

11. First perceive a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, do not have an average hearing loss in the better ear greater than 40 decibels at 55 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5-1951.
12. Do not use a Schedule I drug or other substance, an amphetamine, a narcotic, or any other habit forming drug; and
13. Have no current clinical diagnosis of alcoholism.

I CERTIFY THAT I HAVE READ, UNDERSTAND AND MEET THE PRECEDING QUALIFICATIONS FOR COMMERCIAL MOTOR VEHICLE DRIVERS IN INTRASTATE COMMERCE. I FURTHER CERTIFY THAT I WILL OPERATE A COMMERCIAL MOTOR VEHICLE IN INTRASTATE COMMERCE ONLY.

\_\_\_\_\_  
Write Usual Signature

Sworn to and subscribed before me on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Notary Public or Authorized Officer

**DEPARTMENT USE ONLY**

Waiver Presented:

- ( ) LIMB  
( ) VISION

**CERTIFICATION OF PHYSICAL EXEMPTION 49 CFR PART 391/390**

CDL-10 (Rev. 9/99)

All information on this form except the signature must be TYPEWRITTEN or PRINTED in BLACK INK.  
The signature shall be WRITTEN in BLACK INK.

LAST NAME		/FIRST NAME		/MIDDLE NAME		/MAIDEN NAME	
DRIVER LICENSE NUMBER		BIRTH DATE			SOCIAL SECURITY NUMBER		
		MO.	DAY	YEAR	AGE NOW		

INSTRUCTIONS: In order to claim physical exemption from 49 Code of Federal Regulations (CFR) Part 391/390 you must meet and certify to the following qualification requirements.

I certify that I:

- a. Am at least 18 years of age.
- b. Am not disqualified to operate a motor vehicle.

I certify that I am exempt from the physical provisions of 49 CFR, Part 391/390 as I will operate a commercial motor vehicle only in the following capacity. Check the appropriate box(es):

- School bus drivers employed by a private or parochial school and school bus drivers employed by a company that operates school buses under contract with a school are exempt from 49 CFR, Part 391/390, while transporting school children and/or school personnel from home to school and from school to home;
- Transportation performed by the Federal Government, a state, or any political subdivision of a state (this includes school bus drivers employed directly by a school district), or any agency established under a compact between states that has been approved by the Congress of the United States;

Drivers who claim an exemption under either one of the provisions listed above and who are seeking to obtain or maintain employment as a school bus driver must undergo and pass an annual physical examination as required by V.C.S. Art. 6687b, Section 5(a), recodified as Texas Transportation Code Ann., Section 521.022 (1996).

- The occasional transportation of personal property by individuals not for compensation nor in the furtherance of a commercial enterprise;
- The transportation of human corpses or sick and injured persons;
- The private transportation of passengers.
- Persons operating fire trucks and rescue vehicles while involved in emergency and related operations. (These are persons not exempted from CDL because they are not an employee of a political subdivision nor are they volunteer fire fighters.)
- Intracity zone drivers with limited exception from 49 CFR, Part 391/390 who possess a DOT medical examiner's certificate restricted to intracity operation. (Medical certificate must be presented to DPS employee at time of application.)
- The transportation of farm machinery, supplies, or both to or from a farm for custom-harvesting operations on a farm or the transporting of custom-harvested operations to storage or market.
- Drivers operating motor vehicles controlled and operated by a beekeeper engaged in the seasonal transportation of bees.
- The operation of a vehicle operated intrastate and used in oil or water well servicing or oil or water well drilling and which is constructed as a machine consisting, in general, of a mast, an engine for power, a draw works, and a chassis permanently constructed or assembled for such purpose. (CDL must be restricted to intrastate.)
- The operation of a mobile crane that is an unladen self-propelled vehicle constructed as a machine used to raise, shift, or lower weights. (CLD must be restricted to intrastate.)

I CERTIFY THAT I HAVE READ, UNDERSTAND AND MEET THE QUALIFICATIONS FOR PHYSICAL EXEMPTION FROM 49 CFR, PART 391/390.

\_\_\_\_\_  
Write Usual Signature

Sworn to and subscribed before me on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Notary Public or Authorized Officer