



Motor Carrier Attachment:

Bus Driver IH Order

HWY24FH004

(8 pages)

**UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

JEFFREY A. BRANNON)	Order No.: WV-2024-5000-IMH
)	
West Virginia Commercial)	Service Date: _____
Driver's License)	Service Time: _____
)	

IMMINENT HAZARD OUT-OF-SERVICE ORDER

This is an Imminent Hazard Disqualification Order (“ORDER”) issued by the Secretary of the United States Department of Transportation (the “Secretary”) pursuant to 49 U.S.C. §§ 31310(f) and 521(b)(5)(B) and 49 CFR § 383.52 and pursuant to a delegation of authority to the Regional Field Administrator, Eastern Service Center, Federal Motor Carrier Safety Administration (“FMCSA”). This ORDER applies to Jeffrey A. Brannon, a commercial motor vehicle driver (also referred to as “you,” “your,” and/or “Brannon”).

The Secretary and the FMCSA find that your continued operation of any commercial motor vehicle (CMV), as defined in 49 CFR § 390.5T,¹ constitutes an **imminent hazard** to public safety. This finding means that based upon your present state of unacceptable safety compliance, your operation of any commercial motor vehicle substantially increases the likelihood of serious injury or death if not discontinued immediately.

In addition, pursuant to 49 CFR § 383.52, the determination that your operation of CMVs constitutes an imminent hazard results in you being disqualified from operating any CMV for

¹ Under 49 CFR § 390.5T, a commercial motor vehicle includes “any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle — (1) [h]as a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or (2) [i]s designed or used to transport more than 8 passengers (including the driver) for compensation; or (3) [i]s designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation.”

which a commercial driver's license is required. The initial period of disqualification is for 30 days from the service date of this ORDER and is effective immediately. Additionally, the Regional Field Administrator proposes a disqualification of one year, from the service date of this ORDER, which will take effect in 30 days unless you submit a request for administrative review or the Regional Field Administrator rescinds this ORDER pursuant to Section IV below. This disqualification is separate from any other disqualification to which you may have been, or will be, subject. This disqualification will be transmitted to the jurisdiction where you are licensed and will become a part of your driving record maintained by that jurisdiction.

**EFFECTIVE IMMEDIATELY YOU MUST CEASE OPERATING
ANY COMMERCIAL MOTOR VEHICLE IN INTRASTATE OR INTERSTATE
COMMERCE.**

**YOU ARE PROHIBITED FROM OPERATING ANY COMMERCIAL MOTOR
VEHICLE IN INTRASTATE OR INTERSTATE COMMERCE AT ANY TIME DURING
WHICH THIS ORDER IS IN EFFECT.**

If you are served this ORDER while operating a CMV in intrastate or interstate commerce, you must immediately park such vehicle and arrange for a fully qualified driver to take over operation of the vehicle. You may not continue to operate the CMV.

I. JURISDICTION

You are a driver of CMVs in intrastate commerce. You are subject to the Federal Motor Carrier Safety Regulations ("FMCSRs") in 49 CFR Parts 382 and 383 as well as the Orders of the USDOT and FMCSA. *See* 49 U.S.C. §§ 506, 507, 13501, 31133, 31136, 31301 and 31306. You are required to comply with federal statutes and regulations including those pertaining to controlled substance and alcohol use. *See* 49 CFR Parts 40, 382, and 383.

II. BASIS FOR ORDER

The basis for determining that your operation of a CMV poses an imminent hazard to the public is that you have failed to exercise an appropriate duty of care to the motoring public when operating a CMV. You drove a school bus with passengers while having a breath alcohol concentration (“BrAC”) of approximately 0.127% in violation of 49 CFR § 382.201. Your blatant violations of the FMCSRs and disregard for the safety of your school-age passengers and other highway users demonstrated by these actions substantially increases the likelihood of serious injury or death to you and the motoring public.

The specific deficiencies that substantially increase the likelihood of serious injury or death are as follows:

1. On or about March 4, 2024, you were involved in a recordable single-vehicle accident while operating a 2022 ICBU school bus with a GVWR of 31,000 pounds, designed to transport 16 or more passengers, including the driver, on behalf of Calhoun County Board of Education. You were transporting 19 students, all between the ages of 11 and 18, from school to home along South Calhoun Highway in Calhoun County, West Virginia.

2. The accident resulted in multiple injuries which included, but are not limited to,

██████████ with a pulse-less lower leg, ██████████ with a T1 vertebra fracture, and ██████████

██████████ with a head injury concussion.

3. Trooper Brian Young (“Trooper Young”) arrived at the scene and observed you inside the bus yelling, screaming, and acting aggressively. You were subsequently detained in hand restraints and placed in the rear of the police cruiser so the officer could assist the injured students.

4. Upon his return to the police cruiser, Trooper Young removed you from the vehicle and detected the smell of alcohol emitting from your breath. You admitted to Trooper Young that you had consumed alcohol the day of the accident.

5. A preliminary on-site breath test produced a readout of 0.161%.

6. Additionally, an on-board surveillance footage captures a disturbing video of the accident which shows you driving erratically and swerving on the two-lane road.

7. At approximately 7:28 p.m., an intoximeter EC/IR II test was performed at the West Virginia State Police Office. This chemical test of your breath showed an alcohol concentration of 0.127%. Accordingly, you were performing a safety-sensitive function, driving, while having an alcohol concentration greater than .04% in violation of 49 CFR § 382.201.

8. The State of West Virginia charged you with one count of driving under the influence of alcohol, controlled substances, in violation of W. Va. Code § 17C-5-2(c) and three counts of child neglect resulting in injury; child neglect creating risk of injury; criminal penalties in violation of W. Va. Code § 61-8D-4.

III. REMEDIAL ACTION

To abate the imminent hazard, and before you may operate a commercial motor vehicle in intrastate or interstate commerce, provide evidence to demonstrate compliance with the FMCSRs to the FMCSA Eastern Service Center Regional Field Administrator. **You may not operate a commercial motor vehicle in intrastate or interstate commerce until you have fully complied with the Remedial Actions outlined in this section.**

1. You must complete the return-to-duty requirements in 49 CFR part 40, subpart O.

2. In accordance with 49 CFR §§ 382.201 and 207, you must demonstrate that you will not report for duty or remain on duty requiring the performance of safety-sensitive

functions with an alcohol concentration of .04 or greater or within four hours of consuming alcohol.

3. You must comply with all Orders issued by FMCSA.

IV. RESCISSION OF ORDER

You are subject to this ORDER until the ORDER is rescinded in writing by FMCSA.

Until the ORDER is rescinded, you are prohibited from operating any CMV, as defined by 49 CFR § 383.5, in interstate or intrastate commerce. This ORDER will not be rescinded until the Regional Field Administrator for FMCSA's Eastern Service Center determines the remedial action requirements, specified in Section III of this ORDER, are fully satisfied and acceptable documentation is submitted.

Any request to rescind this ORDER and documentation demonstrating satisfactory completion of the remedial action requirements must be sent to the Regional Field Administrator, Eastern Service Center, with a copy to the Division Administrator, West Virginia Division, via electronic mail or to the following addresses:

Regional Field Administrator, Eastern Service Center
Federal Motor Carrier Safety Administration
31 Hopkins Plaza, Suite 800
Baltimore, MD 21201
ESCEnforcement@dot.gov

Division Administrator, West Virginia Division
Federal Motor Carrier Safety Administration
405 Capitol Street, Suite 1001
Charleston, WV 25301
michael.vaughn@dot.gov

V. FAILURE TO COMPLY

Failure to comply with the provisions of this ORDER will subject you to an action in the United States District Court for equitable and/or declaratory relief and civil penalties. You may

be assessed civil penalties of up to \$2,304 for violations of this ORDER. Each day you operate in violation of this ORDER will constitute a separate violation and subject you to a separate penalty. *See* 49 USC §§ 521(b)(2)(A) and 49 CFR §§ 386.72(b)(6) and 386.82(a)(4). Knowing and/or willful violation of the provisions of this ORDER may also subject you to criminal penalties. *See* 49 USC § 521(b)(6).

VI. ADDITIONAL PENALTIES FOR VIOLATIONS

Any driver who violates Federal requirements, including the FMCSRs, is subject to civil and/or criminal penalty provisions. Penalty provisions are separate and distinct from this ORDER. Penalties may be assessed for violations of Federal requirements, including the FMCSRs and Orders of the FMCSA, previously discovered, discovered after service of this ORDER, and discovered during subsequent investigations.

VII. RIGHT TO REVIEW

You have the right to administrative review pursuant to 5 U.S.C. § 554 and 49 CFR §§ 383.52(c) and 386.72(b)(4). If requested, administrative review must be commenced within ten days after the petition for review is filed and must be concluded as expeditiously as practicable but may run longer than ten days from the date of issuance of such ORDER or the filing of the petition for review. *See* 49 U.S.C. § 521(b)(5) and 49 CFR § 386.72(b)(4). A request for review must be addressed to the Assistant Administrator, United States Department of Transportation, Federal Motor Carrier Safety Administration, with a copy sent to Adjudications Counsel and the Regional Field Administrator, Eastern Service Center, via electronic mail or at the following addresses. To ensure your request is received and reviewed in an expedited manner, electronic mail is recommended.

Assistant Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, S.E.
Washington, DC 20590

Adjudications Counsel (MC-CCA)
Federal Motor Carrier Safety Administration
Office of the Chief Counsel
1200 New Jersey Avenue, S.E.
Washington, DC 20590
FMCSA.Adjudication@dot.gov

Regional Field Administrator, Eastern Service Center
Federal Motor Carrier Safety Administration
31 Hopkins Plaza, Suite 800
Baltimore, MD 21201
ESCEenforcement@dot.gov

The request for review should state the material facts which you believe dispute or contradict the finding that your continued operation of a commercial motor vehicle constitutes an **imminent hazard** to the public.

A REQUEST FOR ADMINISTRATIVE REVIEW DOES NOT SUSPEND OR DELAY YOUR DUTY TO COMPLY WITH THIS ORDER IMMEDIATELY. See 49 CFR § 383.52. This ORDER is separate and independent from all other Orders or actions that may be issued by the FMCSA or other jurisdiction, and does not amend or modify any other Orders or actions. Any request for administrative review of this ORDER does not attach to or apply to any other Order or action.

Note that a copy of this Order will be posted on the FMCSA website.

~~TAFT DARRYL~~ Digitally signed by ~~TAFT~~
~~DARRYL KELLY~~
~~KELLY~~ Date: 2024.03.13 14:06:38
-04'00'

Date: March 13, 2024

~~Taft Kelly~~ Regional Field Administrator
U.S. Department of Transportation
Federal Motor Carrier Safety Administration
Eastern Service Center