



## COMMERCIAL DRIVER'S LICENSE (CDL) DRUG AND ALCOHOL CLEARINGHOUSE

### OVERVIEW<sup>1</sup>

The Federal Motor Carrier Safety Administration is establishing the Commercial Driver's License Drug and Alcohol Clearinghouse. This new database will contain information pertaining to violations of the U.S. Department of Transportation controlled substances (drug) and alcohol testing program for holders of CDLs.

The Clearinghouse is a secure online database that will give employers, the FMCSA, state driver licensing agencies and state law enforcement personnel real-time access to important information about CDL driver drug and alcohol program violations.

The Clearinghouse rule requires FMCSA-regulated employers, medical review officers, substance abuse professionals, consortia/third-party administrators, and other service agents to report information related to violations of the drug and alcohol regulations by current and prospective employees in 49 Code of Federal Regulations, parts 40 and 382. This begins on January 6, 2020.

The Clearinghouse will also require the following:

- Employers will be required to query the Clearinghouse for current and prospective employees' drug and alcohol violations before permitting those employees to operate a commercial motor vehicle on public roads.
- Employers will be required to query the Clearinghouse for each driver they currently employ annually.

The Clearinghouse will provide FMCSA and employers the necessary tools to identify drivers who are prohibited from operating a CMV based on DOT drug and alcohol program violations and ensure that such drivers receive the required evaluation and treatment before operating a CMV on public roads.

Specifically, information maintained in the Clearinghouse will enable employers to identify drivers who commit a drug or alcohol program violation while working for one employer, but who fail to subsequently inform another employer (as required by current regulations). Records of drug and alcohol program violations will remain in the

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<sup>1</sup> Federal Motor Carrier Safety Administration, "[Commercial Driver's License Drug and Alcohol Clearinghouse](#)." August 2019.

Clearinghouse for five years, or until the driver has completed the return-to-duty process, whichever is later.

Employers will need to report drug and alcohol violations and check that no current or prospective employee is prohibited from performing safety sensitive functions, such as operating a commercial motor vehicle, due to a drug and alcohol program violation for which a driver has not successfully completed a return-to-duty process.

The school needs to offer light duty to bus drivers prohibited from performing safety sensitive functions while school is in session, but it is not required over the compulsory vacation, until school starts again or regular workdays. If light duty was not being offered and TTD (Temporary Total Disability) was being paid, TTD will continue into the summer while the employee is restricted.

Per multiple attorneys, the defense that has been used with a good faith basis is:

While generally vacation pay does not reduce TTD liability, pursuant to Wis. Stats.s102.43(8) there is no liability for temporary disability benefits when the “wage loss” is due to a compulsory vacation period scheduled in accordance with a collective bargaining agreement. So, if your injured bus driver is back to work with restrictions, earning full wages, and then a compulsory vacation period begins (similar to a temporary plant shutdown for factory workers), that bus driver would not be entitled to temporary disability benefits. Our attorneys have used this defense in the past for clients who employ food service workers on college campuses, which essentially shut down during the winter and summer breaks.

#### **WHAT TYPES OF DRIVERS AND EMPLOYERS WILL THE CLEARINGHOUSE AFFECT?**

The Clearinghouse will affect all CDL drivers who operate commercial motor vehicles on public roads and their employers and service agents. This regulation affects, but is not limited to:

- Interstate and intrastate motor carriers, including passenger carriers
- School bus drivers
- Construction equipment operators
- Limousine drivers
- Municipal vehicle drivers
- Federal and state agencies subject to FMCSA drug and alcohol use testing regulations

#### **HOW DO AUTHORIZED USERS SIGN UP TO ACCESS THE CLEARINGHOUSE DATABASE AND WHEN WILL REGISTRATION BE AVAILABLE?**

Employers, drivers, medical review officers, substance abuse professionals, and third-party administrators must register in the Clearinghouse to access the Clearinghouse database. Registration is scheduled to open in fall 2019.

[For more information on the Clearinghouse, please visit their website.](#)

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