

In subsection (c)(1), the words “operates a commercial motor vehicle and” and “with an employer” are omitted as surplus.

**§ 31304. Employer responsibilities**

An employer may not knowingly allow an employee to operate a commercial motor vehicle in the United States during a period in which the employee—

- (1) has a driver’s license revoked, suspended, or canceled by a State, has lost the right to operate a commercial motor vehicle in a State, or has been disqualified from operating a commercial motor vehicle; or
- (2) has more than one driver’s license (except as allowed under section 31302 of this title).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1016.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
31304 .....	49 App.:2703.	Oct. 27, 1986, Pub. L. 99–570, §12004, 100 Stat. 3207–171.

In this section, before clause (1), the words “Effective July 1, 1987” are omitted as executed. The words “permit, or authorize” are omitted as surplus. Clause (2) is substituted for 49 App.:2703(2) to eliminate unnecessary words.

**§ 31305. General driver fitness and testing**

(a) MINIMUM STANDARDS FOR TESTING AND FITNESS.—The Secretary of Transportation shall prescribe regulations on minimum standards for testing and ensuring the fitness of an individual operating a commercial motor vehicle. The regulations—

- (1) shall prescribe minimum standards for written and driving tests of an individual operating a commercial motor vehicle;
- (2) shall require an individual who operates or will operate a commercial motor vehicle to take a driving test in a vehicle representative of the type of vehicle the individual operates or will operate;
- (3) shall prescribe minimum testing standards for the operation of a commercial motor vehicle and may prescribe different minimum testing standards for different classes of commercial motor vehicles;
- (4) shall ensure that an individual taking the tests has a working knowledge of—
  - (A) regulations on the safe operation of a commercial motor vehicle prescribed by the Secretary and contained in title 49, Code of Federal Regulations; and
  - (B) safety systems of the vehicle;
- (5) shall ensure that an individual who operates or will operate a commercial motor vehicle carrying a hazardous material—
  - (A) is qualified to operate the vehicle under regulations on motor vehicle transportation of hazardous material prescribed under chapter 51 of this title;
  - (B) has a working knowledge of—
    - (i) those regulations;
    - (ii) the handling of hazardous material;
    - (iii) the operation of emergency equipment used in response to emergencies arising out of the transportation of hazardous material; and

- (iv) appropriate response procedures to follow in those emergencies; and

(C) is licensed by a State to operate the vehicle after having first been determined under section 5103a of this title as not posing a security risk warranting denial of the license.

(6) shall establish minimum scores for passing the tests;

(7) shall ensure that an individual taking the tests is qualified to operate a commercial motor vehicle under regulations prescribed by the Secretary and contained in title 49, Code of Federal Regulations, to the extent the regulations apply to the individual; and

(8) may require—

(A) issuance of a certification of fitness to operate a commercial motor vehicle to an individual passing the tests; and

(B) the individual to have a copy of the certification in the individual’s possession when the individual is operating a commercial motor vehicle.

(b) REQUIREMENTS FOR OPERATING VEHICLES.—

(1) Except as provided in paragraph (2) of this subsection, an individual may operate a commercial motor vehicle only if the individual has passed written and driving tests that meet the minimum standards prescribed by the Secretary under subsection (a) of this section to operate the vehicle and has a commercial driver’s license to operate the vehicle.

(2) The Secretary may prescribe regulations providing that an individual may operate a commercial motor vehicle for not more than 90 days if the individual—

(A) passes a driving test for operating a commercial motor vehicle that meets the minimum standards prescribed under subsection (a) of this section; and

(B) has a driver’s license that is not suspended, revoked, or canceled.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1016; Pub. L. 106–159, title II, §201(d), Dec. 9, 1999, 113 Stat. 1760; Pub. L. 107–56, title X, §1012(b), Oct. 26, 2001, 115 Stat. 397.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
31305(a) .....	49 App.:2704(a).	Oct. 27, 1986, Pub. L. 99–570, §12005(a), (b), 100 Stat. 3207–171.
31305(b) .....	49 App.:2704(b).	

In this section, the word “Federal” is omitted as unnecessary.

In subsection (a), before clause (1), the words “Not later than July 15, 1988” are omitted as obsolete. In clause (3), the words “if the Secretary considers appropriate to carry out the objectives of this title” are omitted as unnecessary.

In subsection (b)(1), the words “taken and” are omitted as unnecessary. The text of 49 App.:2704(b)(3) is omitted as obsolete.

AMENDMENTS

2001—Subsec. (a)(5)(C). Pub. L. 107–56 added subpar. (C).

1999—Subsec. (b)(1). Pub. L. 106–159 struck out “to operate the vehicle” after “written and driving tests” and inserted “to operate the vehicle and has a commercial

driver's license to operate the vehicle" before period at end.

OPERATION OF COMMERCIAL MOTOR VEHICLES BY INDIVIDUALS WHO USE INSULIN TO TREAT DIABETES MELLITUS

Pub. L. 109-59, title IV, § 4129, Aug. 10, 2005, 119 Stat. 1742, provided that:

"(a) REVISION OF FINAL RULE.—Not later than 90 days after the date of the enactment of this Act [Aug. 10, 2005], the Secretary [of Transportation] shall begin revising the final rule published in the Federal Register on September 3, 2003, relating to persons with diabetes, to allow individuals who use insulin to treat their diabetes to operate commercial motor vehicles in interstate commerce. The revised final rule shall provide for the individual assessment of applicants who use insulin to treat their diabetes and who are, except for their use of insulin, otherwise qualified under the Federal motor carrier safety regulations. The revised final rule shall be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century [Pub. L. 105-178] (49 U.S.C. 31305 note) and shall conclude the rulemaking process in the Federal Motor Carrier Safety Administration docket relating to qualifications of drivers with diabetes.

"(b) NO PERIOD OF COMMERCIAL DRIVING WHILE USING INSULIN REQUIRED FOR QUALIFICATION.—After the earlier of the date of issuance of the revised final rule under subsection (a) or the 90th day following the date of enactment of this Act [Aug. 10, 2005], the Secretary may not require individuals with insulin-treated diabetes mellitus who are applying for an exemption from the physical qualification standards to have experience operating commercial motor vehicles while using insulin in order to be exempted from the physical qualification standards to operate a commercial motor vehicle in interstate commerce.

"(c) MINIMUM PERIOD OF INSULIN USE.—Subject to subsection (b), the Secretary shall require individuals with insulin-treated diabetes mellitus to have a minimum period of insulin use to demonstrate stable control of diabetes before operating a commercial motor vehicle in interstate commerce. Such demonstration shall be consistent with the findings reported in July 2000, by the expert medical panel established by the Secretary, in 'A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate Commercial Motor Vehicles in Interstate Commerce as Directed by the Transportation Equity Act for the 21st Century'. For individuals who have been newly diagnosed with type 1 diabetes, the minimum period of insulin use may not exceed 2 months, unless directed by the treating physician. For individuals who have type 2 diabetes and are converting to insulin use, the minimum period of insulin use may not exceed 1 month, unless directed by the treating physician.

"(d) LIMITATIONS.—Insulin-treated individuals may not be held by the Secretary to a higher standard of physical qualification in order to operate a commercial motor vehicle in interstate commerce than other individuals applying to operate, or operating, a commercial motor vehicle in interstate commerce; except to the extent that limited operating, monitoring, and medical requirements are deemed medically necessary under regulations issued by the Secretary."

CDL SCHOOL BUS ENDORSEMENT

Pub. L. 106-159, title II, § 214, Dec. 9, 1999, 113 Stat. 1766, provided that: "The Secretary shall conduct a rulemaking to establish a special commercial driver's license endorsement for drivers of school buses. The endorsement shall, at a minimum—

- "(1) include a driving skills test in a school bus; and
- "(2) address proper safety procedures for—
  - "(A) loading and unloading children;
  - "(B) using emergency exits; and
  - "(C) traversing highway rail grade crossings."

MEDICAL CERTIFICATE

Pub. L. 106-159, title II, § 215, Dec. 9, 1999, 113 Stat. 1767, provided that: "The Secretary shall initiate a rulemaking to provide for a Federal medical qualification certificate to be made a part of commercial driver's licenses."

INSULIN TREATED DIABETES MELLITUS

Pub. L. 105-178, title IV, § 4018, June 9, 1998, 112 Stat. 413, provided that:

"(a) DETERMINATION.—Not later than 18 months after the date of enactment of this Act [June 9, 1998], the Secretary [of Transportation] shall determine whether a practicable and cost-effective screening, operating, and monitoring protocol could likely be developed for insulin treated diabetes mellitus individuals who want to operate commercial motor vehicles in interstate commerce that would ensure a level of safety equal to or greater than that achieved with the current prohibition on individuals with insulin treated diabetes mellitus driving such vehicles.

"(b) COMPILATION AND EVALUATION.—Prior to making the determination in subsection (a), the Secretary shall compile and evaluate research and other information on the effects of insulin treated diabetes mellitus on driving performance. In preparing the compilation and evaluation, the Secretary shall, at a minimum—

"(1) consult with States that have developed and are implementing a screening process to identify individuals with insulin treated diabetes mellitus who may obtain waivers to drive commercial motor vehicles in intrastate commerce;

"(2) evaluate the Department's policy and actions to permit certain insulin treated diabetes mellitus individuals who meet selection criteria and who successfully comply with the approved monitoring protocol to operate in other modes of transportation;

"(3) assess the possible legal consequences of permitting insulin treated diabetes mellitus individuals to drive commercial motor vehicles in interstate commerce;

"(4) analyze available data on the safety performance of diabetic drivers of motor vehicles;

"(5) assess the relevance of intrastate driving and experiences of other modes of transportation to interstate commercial motor vehicle operations; and

"(6) consult with interested groups knowledgeable about diabetes and related issues.

"(c) REPORT TO CONGRESS.—If the Secretary determines that no protocol described in subsection (a) could likely be developed, the Secretary shall report to Congress the basis for such determination.

"(d) INITIATION OF RULEMAKING.—If the Secretary determines that a protocol described in subsection (a) could likely be developed, the Secretary shall report to Congress a description of the elements of such protocol and shall promptly initiate a rulemaking proceeding to implement such protocol."

PERFORMANCE-BASED CDL TESTING

Pub. L. 105-178, title IV, § 4019, June 9, 1998, 112 Stat. 414, provided that:

"(a) REVIEW.—Not later than 1 year after the date of enactment of this Act [June 9, 1998], the Secretary [of Transportation] shall complete a review of the procedures established and implemented by States under section 31305 of title 49, United States Code, to determine if the current system for testing is an accurate measure and reflection of an individual's knowledge and skills as an operator of a commercial motor vehicle and to identify methods to improve testing and licensing standards, including identifying the benefits and costs of a graduated licensing system.

"(b) REGULATIONS.—The Secretary may issue regulations under section 31305 of title 49, United States Code, reflecting the results of the review."

DRIVER FATIGUE

Pub. L. 105-178, title IV, § 4021, June 9, 1998, 112 Stat. 414, provided that:

“(a) TECHNOLOGIES TO REDUCE FATIGUE OF COMMERCIAL MOTOR VEHICLE OPERATORS.—

“(1) DEVELOPMENT OF TECHNOLOGIES.—As part of the activities of the Secretary [of Transportation] relating to the fatigue of commercial motor vehicle operators, the Secretary shall encourage the research, development, and demonstration of technologies that may aid in reducing such fatigue.

“(2) MATTERS TO BE TAKEN INTO ACCOUNT.—In carrying out paragraph (1), the Secretary shall take into account—

“(A) the degree to which the technology will be cost efficient;

“(B) the degree to which the technology can be effectively used in diverse climatic regions of the Nation; and

“(C) the degree to which the application of the technology will further emissions reductions, energy conservation, and other transportation goals.

“(3) FUNDING.—The Secretary may use amounts made available under section 5001(a)(2) of this Act [112 Stat. 419].

“(b) NONSEDATING MEDICATIONS.—The Secretary shall review available information on the effects of medications (including antihistamines) on driver fatigue, awareness, and performance and shall consider encouraging, if appropriate, the use of nonsedating medications (including nonsedating antihistamines) as a means of reducing the adverse effects of the use of other medications by drivers.”

### § 31306. Alcohol and controlled substances testing

(a) DEFINITION.—In this section, “controlled substance” means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) specified by the Secretary of Transportation.

(b) TESTING PROGRAM FOR OPERATORS OF COMMERCIAL MOTOR VEHICLES.—(1)(A) In the interest of commercial motor vehicle safety, the Secretary of Transportation shall prescribe regulations that establish a program requiring motor carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of operators of commercial motor vehicles for the use of a controlled substance in violation of law or a United States Government regulation and to conduct reasonable suspicion, random, and post-accident testing of such operators for the use of alcohol in violation of law or a United States Government regulation. The regulations shall permit such motor carriers to conduct pre-employment testing of such employees for the use of alcohol.

(B) When the Secretary of Transportation considers it appropriate in the interest of safety, the Secretary may prescribe regulations for conducting periodic recurring testing of operators of commercial motor vehicles for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(2) In prescribing regulations under this subsection, the Secretary of Transportation—

(A) shall require that post-accident testing of an operator of a commercial motor vehicle be conducted when loss of human life occurs in an accident involving a commercial motor vehicle; and

(B) may require that post-accident testing of such an operator be conducted when bodily injury or significant property damage occurs in any other serious accident involving a commercial motor vehicle.

(c) TESTING AND LABORATORY REQUIREMENTS.—In carrying out subsection (b) of this section, the Secretary of Transportation shall develop requirements that shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;

(2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines, including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested; and

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that a laboratory involved in testing under this section have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that any test indicating the use of alcohol or a controlled substance in violation of law or a Government regulation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent the possibility of tampering, so that if the individual’s confirmation test results are positive the individual has an opportunity to have the retained part tested by a 2d confirmation test done independently at another certified laboratory if the individual requests the 2d confirmation test not later than 3 days after being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (except information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial