

Motor Vehicle Division Informational Memo # 23-11

2023 Legislation – Federal Commercial Driver’s License (CDL) Compliance

DATE: May 12, 2023

FROM: Kathleen Meradith-Eyers, MVD Director of Operations & Policy

TO: All Motor Vehicle Division staff, Iowa County Treasurers, and County Treasurers’ staff that issue driver’s licenses and non-operator’s identification cards

SUBJECT

This memo explains a bill that was passed during the 2023 legislative session that conforms Iowa law with federal commercial driver’s license (CDL) requirements.

BACKGROUND

HF 258 made two changes to Iowa Code to ensure Iowa’s continued compliance with certain federal CDL requirements.

Drug and Alcohol Clearinghouse (DACH): HF 258 provided the DOT with authority to comply with FMCSA’s Drug and Alcohol Clearinghouse (DACH) program. Under federal DACH rules, beginning November 18, 2024 we will be prohibited from issuing any commercial driver’s license (CDL) or commercial learner’s permit (CLP) if a person has an open drug or alcohol violation on the DACH. Further, we will need to downgrade an existing CDL/CLP holder to a noncommercial license upon receipt of notice from FMCSA of a DACH violation and record the downgrade on the national Commercial Driver’s License Information System (CDLIS) within 60 days. The downgrade must be ended and the driver eligible for CDL/CLP issuance when the driver’s DACH violation is resolved by completion of the “return-to-duty” process.

Previous legislation passed in 2019 (explained in IM 19-03) added authority for the DOT to query the DACH prior to issuing a CDL or CLP; however, the federal rules have since been updated to add further requirements for state driver’s license agencies, which is why additional legislation was necessary to conform to the updated DACH rules.

Penalty amounts for certain commercial motor vehicle (CMV) offenses: HF 258 also updated several code sections to increase the penalty amounts for certain commercial driver or employer violations, to address three findings of non-compliance from the 2021 Annual Performance Review (APR) by FMCSA. Iowa Code previously listed lower penalty amounts than what is required by federal regulations related to enforcement stops performed by Motor Vehicle Enforcement (MVE) including:

- The fine for a driver who operates a CMV in violation of an out-of-service order issued by a peace officer (Iowa Code penalty amount: at least \$2,500 for first offenses and at least \$5,000 for subsequent offenses; FMCSR penalty currently required: at least \$3,471 for first offense and at least \$6,943 for subsequent offenses)
- The fine for an employer who allows a driver to operate a CMV in violation of an out-of-service order (Iowa Code penalty amount: \$2,750 - \$25,000; FMCSR penalty currently required: \$6,269-\$34,712)
- The fine for an employer who allows a driver to operate a CMV in violation of railroad grade crossing regulations (Iowa Code penalty amount: up to \$10,000; FMCSR penalty currently required: up to \$17,995)

This bill becomes effective on July 1, 2023, but we are not required to comply with the federal DACH requirements until November 18, 2024.

LINK TO LEGISLATION

<https://www.legis.iowa.gov/legislation/BillBook?ga=90&ba=HF258>

LINK TO FMCSA DACH FINAL RULE

<https://www.govinfo.gov/content/pkg/FR-2021-10-07/pdf/2021-21928.pdf>

CURRENT

DACH: Under current law, we have the authority to query the DACH before issuing a CDL or a CLP, but we don't have any authority to deny the issuance of a CDL/CLP or to downgrade an existing CDL/CLP if the driver has an open violation on the DACH.

CMV fine amounts: Iowa Code currently establishes lower fines for certain CMV violations related to traffic stops performed by MVE, in conflict with federal regulations.

NEW

DACH: We now have the legal authority to comply with federal DACH requirements by the compliance deadline of November 18, 2024, by denying issuance of a CDL or CLP, or downgrading an existing CDL or CLP, when a driver has an open DACH violation.

CMV fine amounts: Iowa Code now defers to the federal civil penalty amounts when determining the applicable fines for certain CMV driver or employer violations.

BUSINESS IMPACT

There is no immediate impact to MVD staff or county treasurers due to this bill.

However, this bill enables us to meet the November 18, 2024 compliance deadline for FMCSA's Drug and Alcohol Clearinghouse requirements. As we approach the compliance date and finalize programming, training, and publications related to DACH requirements, we will provide additional information to all impacted staff. The exact ARTS release date is yet to be determined but will not be any later than November 18, 2024.

QUESTIONS AND ANSWERS:

WHAT IS THE DACH AND HOW DOES IT IMPACT CLP/CDL HOLDERS?

Since January 6, 2020, employers of CMV drivers have been required to subject their drivers to drug and alcohol testing under certain circumstances (pre-employment, post-accident, random, and when the employer has 'actual knowledge' of the employee's on-duty drug or alcohol use) and to report positive test results and test refusals to the DACH. Following such a report, the driver must complete the "return-to-duty" process, which includes an evaluation with a substance abuse professional and any recommended treatment, at which point the driver's DACH violation will be reported as "closed" and they may resume operating.

Currently, a person's drug and alcohol violations that are reported on the DACH do not have any impact on the person's CDL or CLP. However, beginning November 18, 2024, a driver won't be eligible for a CDL or a CLP (or their existing CDL/CLP will be downgraded) whenever they have an open violation on the DACH. The driver will need to complete the "return-to-duty" process before the CDL/CLP can be issued or the downgrade ended.

HOW IS THE DACH DIFFERENT FROM THE OPERATING WHILE INTOXICATED (OWI) PROCESS?

DACH differs from the OWI process as the violations recorded on the DACH stem primarily from employer testing, rather than traffic stops where a peace officer invokes implied consent or a court conviction for an OWI.

There could be times when an OWI event also triggers a DACH violation due to the employer reporting the OWI incident to the DACH, and in this case, we will need to follow both processes by both imposing any applicable OWI revocation or disqualification under Iowa Code chapter 321J, and recording a downgrade of the CDL/CLP holder due to the DACH violation. Again, we will provide more information as we approach the compliance date in 2024.

WILL PROGRAMMING BE REQUIRED?

Yes, a team of MVD staff and IT staff are currently working on a project to ensure that ARTS is correctly updated to deny issuance of a CDL/CLP or initiate a downgrade sanction (as applicable) as required by the federal DACH program. These updates will be live on or before the compliance date of November 18, 2024.

The three updated CMV fine amounts do not require programming as these citations are issued by MVE and handled through the judicial process.