



U.S. Department
Of Transportation
**Federal Motor Carrier
Safety Administration**

CERTIFICATE OF SERVICE

I, Preston Cox, certify that the **IMMINENT HAZARD
OUT-OF-SERVICE ORDER (TX-2023-5001-IMH)** issued by the United States Department
of Transportation, Federal Motor Carrier Safety Administration to SAUL AQUILES CARRERA
was served this 14 day of April 2023 at 10:37 o'clock a.m. by personally handing it
to SAUL AQUILES CARRERA at the location of:

Sullivan County TN Detention Center, 140 Blountville
Bypass, Blountville, TN 37617.

Preston Cox

(signature)

Preston Cox

(name)

Federal Program Specialist

(title)

640 Grassmere Park, Suite 111

(business address)

Nashville TN 37211

(615) 620-9379

(office telephone number)

UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

SAUL AQUILES CARRERA
New York Commercial Driver's License

)
) Order No.: TX-2023-5001-IMH
)
) Service Date: 4/14/2023
)
) Service Time: 10:37 am
)

IMMINENT HAZARD OUT-OF-SERVICE ORDER

This is an Imminent Hazard Out-of-Service Order (“ORDER”) issued by the Secretary of the United States Department of Transportation (the “Secretary”) pursuant to 49 U.S.C. § 521(b)(5)(A), 49 U.S.C. § 31310(f), 49 CFR § 383.52, and 49 CFR § 386.72(b)(1), and pursuant to a delegation of authority to the Regional Field Administrator, Western Service Center, Federal Motor Carrier Safety Administration (“FMCSA”), United States Department of Transportation (“USDOT”). This ORDER applies to Saul Aquiles Carrera, a commercial motor vehicle driver (also referred to as “you,” “your,” and/or “Driver Carrera”).

The Secretary and the FMCSA find that your continued operation of any commercial motor vehicle (CMV), as defined in 49 CFR § 390.5T¹, 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.

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.”

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 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. The Regional Field Administrator proposes a disqualification of one year from the service date of this ORDER, the maximum duration of disqualification under 49 CFR § 383.52(c). This one-year period of disqualification 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
INTERSTATE COMMERCE.**

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

If you are served this ORDER while operating a CMV in interstate commerce, you must immediately park such vehicle and notify the operating motor carrier of this ORDER. You may not continue to operate the CMV.

I. JURISDICTION

You are a driver of CMVs in interstate commerce. You are subject to the Federal Motor Carrier Safety Regulations ("FMCSRs") in 49 CFR Parts 350-399 as well as the Orders of the USDOT and FMCSA. *See* 49 U.S.C. §§ 506, 507, 13501, 31133, 31136, and 31306. You are required to comply with federal statutes and regulations including those pertaining to controlled

substance and alcohol use and driving commercial motor vehicles. *See* 49 CFR Parts 40, 382 and 392.

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 were arrested and charged with vehicular homicide by intoxication, among other things, following a crash in which a CMV that you were driving collided with another vehicle that was disabled on the side of the roadway. The crash resulted in the death of four people and injuries to others. Driving under the influence of alcohol violates 49 CFR §§ 382.201, 392.2 and 392.5 of the FMCSRs. Your blatant and egregious violations of the FMCSRs and disregard for the safety of the motoring public demonstrated by these actions substantially increases the likelihood of serious injury or death to you and/or to the motoring public if not discontinued immediately.

The specific deficiencies are as follows:

1. On or about March 26, 2023, you were driving a CMV with gross vehicle weight rating (GVWR) over 26,001 pounds with an alcohol concentration over the legal limit. On Interstate 81 in Tennessee, in or around Kingsport (Sullivan and Hawkins Counties), a CMV that you were driving collided with a passenger van towing a trailer that was disabled and stopped on the side of the highway. The crash resulted in four people being killed and at least one other injured. You were taken to a hospital following the crash. Your blood alcohol concentration (BAC) measured 0.16%, in violation of 49 CFR § 382.201 and 49 CFR § 392.5(a)(2). Additionally, empty beer cans were found in and around the cab of the CMV you were operating.

An officer with the Kingsport Police Department in Tennessee could smell the odor of alcohol coming from you following the crash.

2. Following the fatal crash, you were arrested and charged with Vehicular Homicide by Intoxication (four counts), Driving Under the Influence, Reckless Aggravated Assault, Reckless Endangerment, and Due Care. *See* Tenn. Code Ann. (T.C.A.) §§ 39-13-213, 55-10-401, 39-13-102, 39-13-103, and 55-8-136, respectively. You also violated 49 CFR § 392.2 by failing to operate a CMV in accordance with the laws of Tennessee. You currently hold a commercial driver's license issued by the State of New York. As of the date of this order, your employer has not reported you to FMCSA's Drug and Alcohol Clearing House as a prohibited driver under 49 CFR Part 382, Subpart G.

3. Days earlier, on March 12, 2023, you were cited for the following in a CMV: recklessly driving, failure to or improper signal, following another vehicle too closely and improperly on the left side of road. *See* Ky. Rev. Stat. §§ 189.290, 189.380, 189.340, and 189.345, respectively. This conduct also violated 49 CFR § 392.2 by failing to operate a CMV in accordance with the laws of Kentucky. You were arrested by the Kentucky State Police in Carrollton, Kentucky.

III. REMEDIAL ACTION

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

1. You must demonstrate that you will not report for duty, remain on duty, or operate CMVs while using or under the influence of alcohol as identified in 49 CFR § 382.201, and 392.5.
2. You must complete the return-to-duty process under 49 CFR § 382.503 and 49 CFR Part 40, Subpart O. You must be evaluated by a substance abuse professional (SAP). You must provide an accurate account of your alcohol and controlled substances use history for the last five years and a copy of this ORDER at the initial SAP consultation. You must successfully complete the substance abuse education and/or treatment program as recommended by the SAP, pass return-to-duty testing, and otherwise satisfy all requirements set forth in 49 CFR §§ 382.503 and 382.605 and 49 CFR Part 40, subpart O. The SAP evaluation, program completion, and return-to-duty testing must occur after the service date of this ORDER. You must demonstrate full compliance with all SAP assessments and evaluation recommendations and return-to-duty testing. You must provide documentation satisfactory to the Regional Field Administrator that you have completed the SAP evaluation, required education, and return-to-duty process and otherwise complied with 49 CFR Part 40, subpart O.
3. You must be evaluated by a qualified medical examiner who is familiar with USDOT regulations and be issued a valid medical examiner's certificate after you have fully and truthfully completed the Medical Examination Report Form. You must provide a copy of the Medical Examination Report Form and medical examiner's certificate. If not evident on the Medical Examination Report Form, you must submit evidence that you disclosed your use of alcohol to the medical examiner.
4. You must provide evidence that you are physically qualified to operate a CMV in accordance with 49 CFR § 391.11, 391.41, and 391.45, including evidence that you do not have any current clinical diagnosis of alcoholism.
5. You must provide information regarding your current employment status, indicating whether you are currently employed as a driver or in any other safety-sensitive position regulated by FMCSA. This documentation must include the name, address and USDOT number of your current motor carrier employer(s), if any.
6. You must satisfactorily demonstrate that you have:
 - a. Completed a training course on the Federal Motor Carrier Safety Regulations (FMCSRs); specifically, training focused on Alcohol and Controlled Substances Use and Testing (49 CFR Part 382), and Driver Qualification (49 CFR Parts 383 and 391); and
 - b. Acquired the requisite knowledge of the rules and safety practices to operate a commercial motor vehicle in accordance with the FMCSRs.

7. You must demonstrate that you will operate CMVs in accordance with the laws, ordinances, and regulations of the jurisdiction(s) in which you are operating in accordance with 49 CFR § 392.2.

8. 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 § 390.5T, in interstate commerce. This ORDER will not be rescinded until the Regional Field Administrator for FMCSA's Western 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, Western Service Center, with a copy to the Division Administrator, Texas Division, via electronic mail or to the following addresses:

Regional Field Administrator, Western Service Center
Federal Motor Carrier Safety Administration
12600 W. Colfax Ave., Suite B-300
Lakewood, CO 80215
wscenf@dot.gov

Division Administrator, Texas Division
Federal Motor Carrier Safety Administration
300 E. 8th Street, Suite 130
Austin, TX 78701
mctxoff@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 \$2,232 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 U.S.C. § 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 U.S.C. § 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, Western Service Center, via electronic mail or at the following addresses:

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

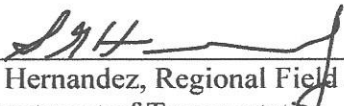
Adjudications Counsel (MC-CCA)
Federal Motor Carrier Safety Administration
Office of the Chief Counsel
1200 New Jersey Avenue, S.E.
Washington, DC 20590
FMCSA.Adjudication@dot.gov

Regional Field Administrator, Western Service Center
Federal Motor Carrier Safety Administration
12600 W. Colfax Ave., Suite B-300
Lakewood, CO 80215
wscenf@dot.gov

The request for review must state the material facts which you believe dispute or contradict the finding that your continued operation of a CMV 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 § 386.72(b)(4). 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.

Date: April 14, 2023



Scott G. Hernandez, Regional Field Administrator
U.S. Department of Transportation
Federal Motor Carrier Safety Administration
Western Service Center