



U.S. Department  
of Transportation

1200 New Jersey Ave, SE  
Washington, DC 20590

Federal Motor Carrier  
Safety Administration

## **NOTICE OF ENFORCEMENT POLICY**

### **Using a Commercial Motor Vehicle to Commit Felony Sexual Assault**

#### ***Purpose***

The purpose of this Notice of Enforcement Policy (“Notice”) is to increase awareness of sexual assault against commercial motor vehicle (CMV) drivers and to emphasize that Federal law requires that persons who are convicted of using a CMV to commit a felony must be disqualified from operating a CMV requiring a commercial driver’s license (CDL) or commercial learner’s permit (CLP). This Notice clarifies that when State courts forward convictions based on the use of a CMV in the commission of felony sexual assault, the SDLA must disqualify the driver for the time periods set forth in 49 CFR 383.51(b), Table 1, item (6).

The safety of CMV operators is a critical aspect of FMCSA’s safety mission. Sexual assaults have occurred at truck stops, fueling stations, and in connection with CMV driver training. Truck drivers whose personal safety is at risk cannot devote their complete attention to the safe operation of a CMV and the performance of other safety sensitive functions. State courts and State Driver Licensing Agencies (SDLAs) play a key role in addressing this problem.

FMCSA is aware that State criminal codes use varying terms to describe sexual assault, including rape. As used in this Notice, the term “sexual assault” means any nonconsensual sexual act proscribed by State law, including when the victim lacks capacity to consent.

“Using a CMV” in the commission of the assault could, for example, include:

- felony sexual assault occurring in or upon a CMV or towed unit; or
- use of a CMV to transport a victim to a site where felony sexual assault is committed; or
- use of a CMV to conceal a felony sexual assault – e.g., the CMV serves as a shield from public view while the assault is taking place.

There may be other circumstances in which a CMV is used in the commission of felony sexual assault, as determined by State prosecutors based on the facts of the case and applicable State law. FMCSA urges State courts to be diligent in forwarding these convictions to the SDLA so the perpetrator will be disqualified from operating a CMV in accordance with 49 CFR 383.51(b) and corresponding State requirements.

## *Legal Basis*

Federal law mandates that drivers required to hold a CDL or CLP be disqualified by the State from operating a CMV if they are convicted of using a CMV to commit a felony, other than a felony related to controlled substances or human trafficking (49 U.S.C. 31310(b)(1)(C)).

Under 49 U.S.C. 31311(a)(15)), a State must disqualify an individual from operating a CMV for the same reasons and time periods as set forth in 49 U.S.C. 31310(b)-(e). The corresponding regulations are set forth in 49 CFR 383.51(b), Disqualification for major offenses, Table 1, and in 49 CFR sections 384.215 and 384.216, which require States to disqualify from operating a CMV a person convicted of an offense specified in 49 CFR 383.51(b), Table 1.

This Notice also falls within the broad authority of 49 U.S.C. 31136(a)(3), to ensure the physical condition of CMV drivers is adequate to operate the vehicles safely; and 49 U.S.C. 31136(a)(4), to ensure that the operation of CMVs does not have a deleterious effect on the physical condition of the operators.

A person convicted of felony sexual assault, in which a CMV was used to commit the crime, is therefore subject to disqualification for using a CMV to commit a felony, as set forth in in Table 1, item (6) of 49 CFR 383.51(b), including when the victim of the sexual assault is someone other than another truck driver or a driver trainee.



Robin Hutcheson  
Administrator

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