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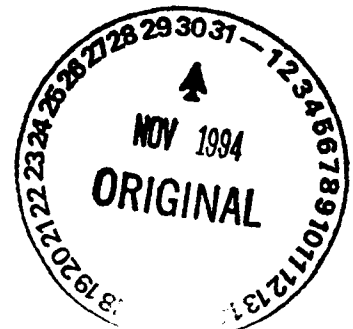
**A GUIDE FOR LOCAL OFFICERS TO THE
TEXAS COMMERCIAL DRIVER LICENSE LAW
(ARTICLE 6687b-2)**

**A RESEARCH PAPER
SUBMITTED IN PARTIAL FULFILLMENT
OF THE REQUIREMENTS FOR
MODULE III**

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#261

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I. Introduction

The purpose of this paper is to provide a guide for local law enforcement agencies to aid in their understanding of the requirements and sanctions of the Texas Commercial Driver's License Act. Due to the number of CDL holders both nationwide and in Texas, local agency traffic patrol officers deal with CMV operator's on a daily basis, yet little information has been disseminated to these officer's concerning the requirements of the Texas Commercial Driver's License Act. Within the statute are specific requirements that are imposed upon the officer. Law Enforcement administrator's must become aware of these requirements and implement appropriate training since failure to act as required by the statute could expose the agency, as well as the individual administrator and officer to liability.

The importance of this paper is that it will provide an analysis of the enforcement oriented sections of the statute and then provide guidance for implementation of the requirements imposed, thus allowing for the development of a training curriculum which covers the critically important areas of the Texas Commercial Driver's License Act. Additional explanatory information and technical interpretations will be offered in a commentary section following the sectional analyses. Prior to beginning this examination of the Texas Commercial Driver's License Act, let us first review the legislative history that gave rise to the Act.

In 1986, The U. S. Congress enacted the Commercial Motor Vehicle Safety Act (the Act)(Pub. L. 99-570, Title XII, 100 Stat. 3207 - 170, as amended; 49 U. S. C. app. 2701 et seq.) to improve the safety of

commercial motor vehicle (CMV) drivers throughout the Nation. The goals of the Act were to:

- (1) Prevent CMV drivers from concealing unsafe driving records by carrying licenses from more than one state;
- (2) Ensure that all CMV drivers demonstrate the minimum levels of knowledge and skills needed to safely operate CMV's before being licensed; and,
- (3) Subject CMV drivers to new, uniform sanctions for certain unsafe driving practices.

To accomplish these goals, Congress assigned responsibilities to CMV drivers, employers, States, and the Secretary of Transportation. The responsibilities imposed on the States were enumerated in Section 12009(a) of the Act (49 U. S. C. app 2708(a)). Additional State requirements were also added by the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102 - 240, Sec. 4009, 105 Stat. 1914, 2156).¹

The Act establishes sanctions for states that did not implement the uniform national standards by April 1, 1992. In compliance with this federal law, the 1989 session of the Texas Legislature passed House Bill 1935 which brought Texas into partial compliance. This legislation was amended to accomplish full compliance in 1991 with the passage of House Bill 1342. The Legislature thereby established Article 6687b-2, the Texas Commercial Driver License Act. Texas began licensing applicants for Commercial Driver's Licenses(CDL) on September 17, 1990.² As of August, 1994, Texas has issued 470,745 CDL's.³ Nationwide, there are about 6,600,000 holders of CDL's.⁴

II. Section 3 - Definitions

As we begin an examination of the various enforcement oriented sections of the Texas CDL Act, it is essential to have a clear understanding of the key phrases and other terminology used throughout the text. Knowledge of the following definitions is also essential to having a clear understanding of the requirements of the law.

- A. "Alcohol" means: beer, ale, port, or stout and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of one percent or more alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute for malt; wine of not less than one-half of one percent of alcohol by volume; or distilled spirits, including ethyl alcohol, ethanol, and spirits of wine in any form, and all dilutions and mixtures thereof from whatever source or by whatever process produced.⁵
- B. "Alcohol Concentration" means: the number of grams of alcohol per 100 milliliters of blood; the number of grams of alcohol per 210 liters of breath; or the number of grams of alcohol per 67 milliliters of urine.⁶
- C. "Commercial Motor Vehicle" means: a motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle:
 - (1) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle rating of more than 10,000 pounds;
 - (2) has a gross vehicle weight rating of 26,001 or more pounds;

(3) is designed to transport 16 or more passengers, including the driver; or

(4) is transporting hazardous material and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.⁷

- D. "Gross Vehicle Weight Rating" or "GVWR" means: the value specified by the manufacturer as the loaded weight of a single vehicle.⁸
- E. "Gross Combination Weight Rating" or "GCWR" means: the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. If there is no manufacturer's specified value, gross combination weight rating is determined by adding the GVWR of the power unit and the total weight of the towed unit or units and any load on a towed unit.⁹

Comments: If the GVWR or GCWR cannot be determined, then the registered gross weight or the actual gross weight of the vehicle(s), whichever is greater, can be used for enforcement purposes in determining CDL requirements.¹⁰ It also makes no difference if the vehicle is loaded or unloaded as the CDL system of licensing is tied to GVWR, GCWR, or whether the vehicle is designed to carry a certain number of passengers. The only time we need to be concerned with the concept of loaded/unloaded is when a vehicle is transporting hazardous materials. Even a passenger car or motorcycle may be CMV's if transporting hazardous materials when required to be placarded.¹¹

F. "Out of Service Order" means: a temporary prohibition against driving a commercial motor vehicle issued as provided by Section 26 of the Texas CDL Act or as provided by the law of another state or 49 C.F.R. 383.5.¹²

III. Persons Exempted From The CDL Requirements

The following persons are exempted from the CDL requirements:

(1) A person operating a vehicle that is controlled and operated by a farmer which is used to transport agricultural products, farm machinery, or farm supplies to or from a farm and which is not used in the operations of a common or contract carrier and used within 150 air miles of the person's farm:

(A) Under this exemption, a rancher is considered a farmer;

(B) A farmer and his farmhands are equally exempt when the farmhands are in the employ of the farmer;

(C) One who purchases a crop in a field and only harvests and transports the product, but takes no part in the planting and cultivating of the product, is not considered a farmer;

(D) One who purchases acres of growing timber and cultivates and harvests it over a period of months or years is considered a farmer. This person may or may not own the property but plants, cultivates, harvests and transports the product;

(E) A farmer transporting hazardous materials requiring placarding is not required to obtain a CDL provided

he/she meets all of the requirements of the farm exemption; and

(F) A farmer transporting another farmer's products and being paid for doing so is acting as a contract carrier and does not meet the conditions of the farm exemption. The existence of a contract, written or verbal, is not relevant to the farm exemption requirements.¹³

(2) A person operating a fire fighting or emergency vehicle necessary to the perservation of life or property or the execution of emergency governmental functions, whether operated by an employee of a political subdivision or by a volunteer fire fighter:

(A) For purposes of this exemption, drivers of authorized emergency vehicles defined in Texas Civil Statutes, Article 6701d, Section 2, are exempt.

(B) This exemption includes industrial emergency vehicles, such as fire trucks and ambulances owned by companies (e.g. oil refineries).

(C) While one may consider an electric company employee repairing downed power lines as "executing emergency governmental functions," these vehicles are not exempt.¹⁴

(3) A person operating a military vehicle, when operated for military purposes by military personnel, members of the reserves and national guard on active duty (including personnel on full-time national guard duty), personnel

on part-time training duty, and national guard military technicians (civilians who are required to wear military uniforms and are subject to the code of military justice):

(A) No other civilians operating military vehicles are eligible for this exemption.

(B) The drivers under this exemption do not have to be in military uniforms to qualify.

(C) This exemption includes the operation of vehicles leased by the United States government for use by the military branches of government, including the U. S. Coast Guard.¹⁵

(4) A person operating a vehicle that is a recreational vehicle that is driven for personal use:

(A) For purposes of this exemption, recreational vehicle means a vehicular type unit primarily designed as temporary living quarters for recreational camping or travel use that either has its own motive power or is mounted on or towed by another vehicle.

(B) This exemption includes travel trailers, camping trailers, truck campers, and motor homes.¹⁶

(5) A person operating a vehicle that is owned, leased, or controlled by an air carrier, as defined by Texas Civil Statutes, Article 46c-1, Section 1(e), and that is driven or operated exclusively by an employee of the air carrier only on the premises of an airport, as defined by Texas Civil Statutes, Article 46d-1, Section 1(a), on service

roads to which the public does not have access.¹⁷

(6) A person operating a CMV on private property.¹⁸

(7) A person operating off-road construction equipment, such as motorscrapers, backhoes, motorgraders, compactors, excavators, tractors, trenchers and bulldozers.¹⁹

IV. Sectional Requirements of the Texas CDL Act

We will now begin a much more in depth examination of the enforcement oriented sections of the Texas CDL Act. The sections will not be examined in numerical order as they appear in the statute. The numerical order of the sections in the statute is not indicative of their importance to the traffic patrol officer. What we will do is to take a building block approach towards understanding the requirements of the CDL Act, going from the requirement of possessing a CDL to disqualification requirements for alcohol and controlled substance violations.

A. Section 9: Section 9 addresses the requirements of CDL possession when operating a CMV. Section 9 states that on or after April 1, 1992, a person may not drive a commercial motor vehicle unless the person has in his immediate possession a valid CDL appropriate for the class of vehicle being driven, or a CDL learner's permit if the person is accompanied by the holder of a valid CDL appropriate for the class of vehicle being driven and who occupies a seat beside the permit holder for the purpose of giving instruction in driving the CMV.²⁰

Comments: In Section 9, the term "valid CDL" is used. In this Section, a valid CDL means a CDL that has not expired

and is not suspended, revoked, or canceled, or whose holder is not disqualified or subject to an out-of-service order.²¹

Also please notice that to be in compliance with this Section, if the driver holds a CDL learner's permit, the co-driver/trainer must be seated in the seat adjacent to the driver, not resting in the sleeper berth as is frequently the case.

The penalty for violation of Section 9 is a Class C misdemeanor, up to a \$500.00 fine. (See Appendix 1)

Provided they meet the definition of a CMV, the following specialized vehicles and driver's will be required to possess a CDL:

- (1) Tow Truck Operators: When a tow truck driver's vehicle plus its load meets the 26,001 pounds or more standard, or any condition which makes a motor vehicle a CMV, the operator is required to have a CDL.²²
- (2) Inspectors for motor vehicle inspection certificates and mechanics who test drive vehicles must have the proper CDL if the vehicle being driven meets the criteria for a CMV.²³
- (3) Drivers who transport manufactured housing on public highways must have the proper CDL if the vehicle meets the weight criteria for a CMV. The manufactured housing being drawn and the trailer

carrying the manufactured housing are included when determining the GCWR.²⁴

(4) Driver's of motorized cranes and vehicles used to pump concrete at construction sites. As these vehicles are designed to be operated on the public highways, they do not qualify for the off-road construction equipment exemption. The fact that these vehicles are only driven for limited distances, at less than normal highway speeds, does not exempt their operators from the CDL requirements.²⁵

(5) A Fertilizer Spreader, if operated by a commercial dealer, would require a CDL. Even if this vehicle was operated under 30 mph, was exempt from registration and classified as an implement of husbandry, it does not exempt the driver from having the appropriate CDL. Remember, if the vehicle is operated by a farmer/planter, it could be exempt from the CDL requirements.²⁶

(6) Driver's of Seed Cotton Modules, if operated by a commercial carrier, would require a CDL. Again, if operated by a farmer, this driver could be exempt from the CDL requirements.²⁷

B. Section 15: Section 15 covers the age requirements for a CDL. Section 15 states that a person may not be issued a CDL or a CDL learner's permit if younger than 18 years of age.²⁸

C. **Section 4:** Section 4 addresses the number of driver licenses a CDL holder is allowed to possess. Section 4 states that a person who drives a CMV commits an offense if the person has more than one driver's license. The penalty for violation of Section 4 is a Class C misdemeanor, up to a \$500.00 fine.²⁹ (See Appendix 1)

Comments: CDL's issued by the Mexican Federal Government or by a Canadian Province or Territory are considered to be single CDL's and are valid for operation in the United States.³⁰

There are three exceptions to this one driver's license requirement:

- (1) A recipient of a new driver's license may hold hold more than one license during the 10 days beginning on the date the person is issued a driver's license;
- (2) A person domiciled in a foreign country is not required to surrender his or her foreign license in order to obtain a CDL. This exemption would include Puerto Rico and other U.S. Territories; or
- (3) A person holding a CMV learner's permit may continue to hold his/her basic driver's license without violating the single-license rule as a learner's permit is not considered a license.³¹

D. **Section 18:** Section 18 addresses the residency requirements of a CDL. Section 18 states that a person who has been domiciled in this state for more than 30 days may not drive a CMV under the

authority of a CDL issued by another jurisdiction. A change in name, mailing address or residence address requires the holder of the CDL to apply for a duplicate license or learner's permit to correct this information not later than the 30th day after the date of change.³²

Comments: In Section 18, the phrase "domiciled in this state" means the state where a person has the person's true, fixed, and permanent home and principal residence and to which the person intends to return whenever absent.³³ For example, a resident of the State of New Mexico, who has a New Mexico CDL, drives for a Texas based motor carrier. This person can lawfully operate a CMV in Texas, while being employed by a Texas company, with his New Mexico CDL, provided this person's true residence remains in New Mexico.

The following items should appear on a CDL: driver's name, signature, address, physical description, date of birth, date of issuance, date of expiration, State license number, photograph of the driver and the vehicle class and endorsements.³⁴

Comments: The original statutory provisions of the CDL Act require that the mailing address must be shown on a CDL. However, recent interpretations by the Federal Highway Administration, now allow a state to use either the mailing or residence address on a CDL.³⁵

The penalty for violation of Section 18 is a Class C misdemeanor, up to a \$500.00 fine. (See Appendix 1)

E. Section 21: We will now examine the different classes of CDL's and also the various types of endorsements and restrictions that you will encounter on a daily basis in dealing with CMV operator's. Within these areas is where the majority of enforcement action will occur.

Section 21 provides that the holder of a valid CDL may drive all vehicles in the class for which that license is issued, and all lesser classes of vehicles except motorcycles and mopeds.³⁶ Specific authorization to operate motorcycles and mopeds must be shown on the CDL. The Texas Department of Public Safety issues CDL's with the following classifications:

- (1) **Class A:** authorizes the driving of any combination of vehicles with a GCWR of 26,001 pounds or more, provided the GVWR of the vehicle or vehicles being towed exceeds 10,000 pounds. If multiple vehicles are being towed, the weight of each towed vehicle will be added together to determine whether the towed vehicles exceed 10,000 pounds, even though no one vehicle being towed exceeds 10,000 pounds.³⁷
- (2) **Class B:** authorizes the driving of any single vehicle with a GVWR of 26,001 pounds or more, any one of those vehicles towing a vehicle that does not exceed 10,000 pounds GVWR, and any vehicle designed to transport 24 passengers or more, including the driver.³⁸

Comments: One might ask if the phrase "designed to transport" as used in the definition of a CMV and

here again in the description of a Class B vehicle means the original design or the current design when a number of the seats are removed? "Designed to transport" means the original design. Removal of seats does not change the design capacity of the CMV. There is one exception. If all of the seats except the driver's seat are removed from a vehicle originally designed to transport only passengers to convert it to a cargo-carrying vehicle, then this modified vehicle would require a GVWR over 26,000 pounds or be transporting placarded hazardous materials to require a CDL.³⁹

Drivers of articulated motorcoaches/buses are required to possess a Class B CDL. Also, an empty bus, provided it meets the class definition, requires the appropriate class of CDL, even though no passengers are being transported.⁴⁰

- (3) **Class C:** authorizes the driving of any single vehicle with a GVWR of less than 26,001 pounds and any one of those vehicles towing another vehicle with a GVWR that does not exceed 10,000 pounds when either is:
- (1) designed to transport 16 or more passengers, including the driver; or
 - (2) used in transportation of hazardous materials that

require the vehicle to be placarded under 49 CFR Part 172, Subpart F.⁴¹

Comments: Persons who operate motorcycles which carry hazardous materials that require a placard must hold a class M motorcycle license in conjunction with a Class A, B, or C CDL.⁴²

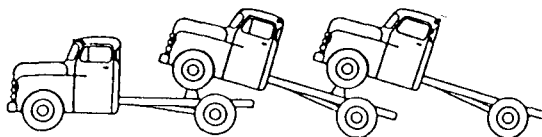
Section 21 also provides that a person who drives a CMV in violation of a restriction or without the proper endorsement commits an offense.⁴³ The Texas Department of Public Safety issues five different endorsements and five different restrictions. We will examine each of these endorsements and restrictions separately.

Endorsements:

(1) **T - Double/Triple Trailers Endorsement:** This endorsement authorizes the holder to tow more than one trailer.⁴⁴

Comments: In addition to the twin trailers operated with a truck tractor, the following two types of vehicles are also examples of vehicles that require this endorsement:

(A) **Double/Triple Saddle Mounts:** A saddle mount is accomplished by mounting the front wheels of the trailing vehicle on the bed of another leaving the rear wheels only of such trailing vehicles in contact with the roadway. Therefore, a driver of a double/triple saddle mount combinations would be required to have this endorsement if the GCWR is 26,001 pounds or more and the GVWR of the vehicles being towed is in excess of 10,000 pounds.⁴⁵



Double Saddle Mount Combination

(B) **Jeep Axles:** A driver who operates a truck tractor pulling a heavy-haul trailer with a "jeep" axle attached to the front of the trailer would be required to have this endorsement. A "jeep" axle is an axle or axle group upon which a fifth wheel is mounted for connecting and towing a semi-trailer when such axle is attached to the fifth wheel of the towing motor vehicle.⁴⁶

- (2) **P - Passenger Vehicle Endorsement:** This endorsement authorizes the holder to operate a vehicle which is designed to transport 16 or more passengers, including the driver.⁴⁷

Comments: Remember, the phrase "designed to transport" refers to the original design capacity of the vehicle. So, even drivers of empty buses would be required to have the passenger endorsement on their CDL's.⁴⁸

- (3) **N - Tank Vehicle Endorsement:** This endorsement authorizes the holder to operate a vehicle or combination of vehicles which transports any liquid or liquified gaseous material in a permanently attached tank, known as a cargo tank, or in a portable tank.⁴⁹

For this endorsement, a Tank Vehicle means any commercial motor vehicle that is designed to transport any liquid or gaseous

materials within a tank that is either permanently or temporarily attached to the vehicle or chassis. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in 49 CFR Part 171. However, this endorsement is not required for tanks having a rated capacity under 1,000 gallons.⁵⁰

49 CFR Part 171 Definitions:

Cargo Tank: a tank intended primarily for the carriage of liquids or gases and is permanently attached to or forms part of a motor vehicle, or is not permanently attached to a motor vehicle but which by reason of its size, construction or attachment to a motor vehicle is loaded or unloaded without being removed from the motor vehicle which has a capacity greater than 450 L (119 gallons) as a receptacle for a liquid or a water capacity greater than 454 Kg (1000 lbs.) as a receptacle for a gas.⁵¹

Portable Tank: a tank designed primarily to be loaded onto, or on, or temporarily attached to a transport vehicle and equipped with skids, mountings or accessories to facilitate handling of the tank by mechanical means which has a capacity greater than 450 L (119 gallons) as a receptacle for a liquid or a water capacity greater than 454 Kg (1000 lbs.) as a receptacle for a gas.⁵²

As you can see from the definitions, the major difference between a cargo tank and a portable tank is how the tank is attached to the transport vehicle. An example of a commonly seen container that meets the definition of a portable tank is the rubberized collapsible container or "bladder bags" that are frequently used to transport products such as glue or molasses.

Remember for this endorsement, we are only looking at vehicles which transport liquids or liquified gaseous materials. The primary reason for requiring this endorsement is that the transportation of liquids requires special skills due to the high center of gravity of these tank vehicles and the movement of the liquid during transportation. There are a lot of vehicles which are commonly called "tankers" but they do not meet the definition of "tank vehicle" under this endorsement. An example of this type of vehicle would be the pneumatic dry-bulk tankers that transport sand and cement. This type of tank vehicle would not require the tank vehicle endorsement. A ready mix concrete mixer would also not be required the tank vehicle endorsement.⁵³

- (4) **H - Hazardous Material Endorsement:** This endorsement authorizes the holder to operate vehicles which are carrying hazardous materials which are required to be placarded under federal regulations.⁵⁴

Definitions:

- (1) **Hazardous Material:** means a substance or material, which has been determined by the Secretary of Transportation to be

capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and has been so designated.⁵⁵

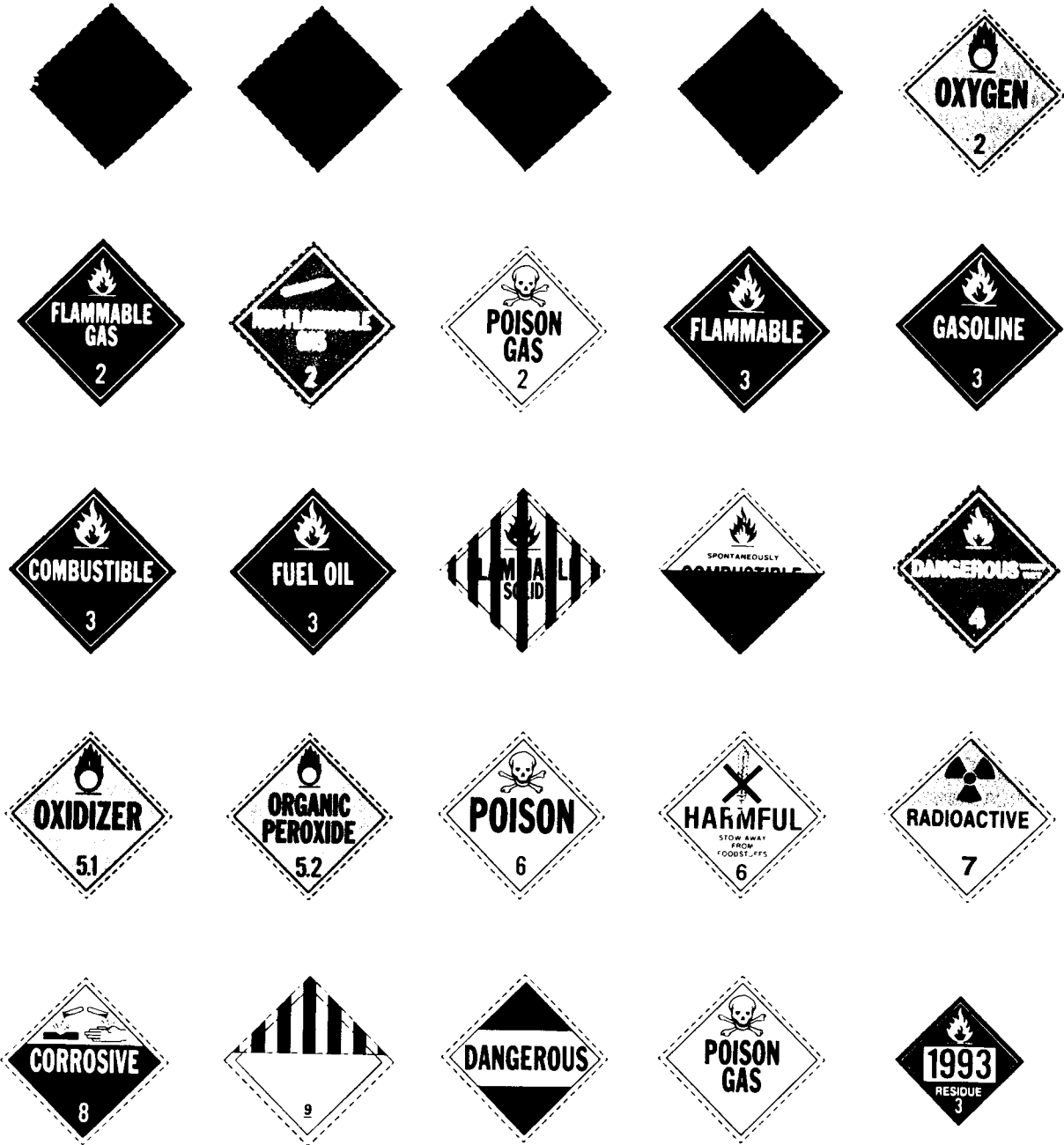
- (2) Placard: means cards or signs placed on the outside of a vehicle to warn others that hazardous materials are being transported on the vehicle.⁵⁶

Indications of Hazardous Material Transportation:

The first step to take in determining whether a hazardous material endorsement is required is to determine if hazardous materials are present on the transport vehicle. The following list of items should be checked by the enforcement officer to properly identify the presence of hazardous materials:

- (1) Placards: As you approach the transport vehicle, check for the presence of placards. They are required to be prominently displayed on the vehicle. Examples of 25 commonly used placards are shown on Page 20 of this text. The proper placarding of a transport vehicle is the responsibility of the shipper and carrier of the hazardous material.
- (2) Package or Container Labels: Labels are essentially miniature placards that are attached to the individual packages that contain hazardous materials. Their purpose is to also warn others of the presence of hazardous cargo.
- (3) The shipping paper represents the most vital piece of information available when attempting to determine if hazardous materials are being transported. The shipping

Hazardous Material Placards



paper contains the information needed to identify the hazardous material being transported. The shipping paper contains the proper shipping name of the commodity, the hazard class or division of the hazard class of the material, the identification number assigned to that material, the packing group assigned to that commodity and the total quantity by weight or volume of the hazardous material being shipped.⁵⁷

Example:

EMERGENCY CONTACT							
1-800-555-5555				EXAMPLE OF EMERGENCY RESPONSE TELEPHONE NUMBER			
NO PACKAGES	DESCRIPTION OF ARTICLES			HAZARD CLASS OR DIVISION NO.	PACKING GROUP		WEIGHT EXACT TO CORRECTION
1 T T	Acetone	3	UN1090	PGII	RQ	39,000 lb	
SHIPPING NAME				ID NUMBER			

Determining If Placards Are Required:

From the information developed after checking for the presence of placards, labels, and shipping papers, you should now know that there are hazardous materials on the transport vehicle that you have stopped. The next step is to determine if placards are required to be displayed on this vehicle. Please be aware that it is permissible to display placards on a transport vehicle, even if the placards are not required, provided the placard being displayed represents the hazard class of the hazardous material being transported. Remember, this is critically important for this CDL endorsement, for this endorsement is only required when the display of placards is required.

To determine if placards are required, you need to know the following three things:

- (A) the hazard class for each material being shipped;
- (B) the packing group for each material being shipped; and
- (C) the total weight of all of the hazardous material in the transport vehicle.

Each of these items are readily attainable from the hazardous material shipping paper that the driver is required to have.

There are 9 different hazard classes for hazardous materials. Within the hazard classes there are also several subdivisions. The chart that appears on Pages 22 and 23 of this text lists the hazard classes and the subdivisions you will encounter when stopping commercial vehicles that are transporting hazardous materials.

<u>Class</u>	<u>Division No.</u>	<u>Name of Class or Division</u>
1	1.1	Explosives(with a mass explosion hazard)
1	1.2	Explosives(with a projection hazard)
1	1.3	Explosives(predominately a fire hazard)
1	1.4	Explosives(no significant blast hazard)
1	1.5	Explosives(Blasting agents/insensitive)
1	1.6	Explosives(Detonating Substances)
2	2.1	Flammable Gas
2	2.2	Non-Flammable Compressed Gas
2	2.3	Poisonous Gas
3	---	Flammable & Combustible Liquids

4	4.1	Flammable Solids
4	4.2	Spontaneously Combustible Material
4	4.3	Dangerous When Wet Material
5	5.1	Oxidizer
5	5.2	Organic Peroxide
6	6.1	Poisonous Materials
6	6.2	Infectious Substance
7	---	Radioactive Materials
8	---	Corrosive Materials
9	---	Miscellaneous Hazardous Materials ⁵⁸

The packing group for a hazardous material means the grouping to which a hazardous material has been assigned to based on the degree of danger presented by the hazardous material. Packing Group I indicates great danger; Packing Group II indicates medium danger and Packing Group III indicates minor danger.⁵⁹

Now that we know the hazard class and hazard class subdivision, if any, the packing group and the total weight of hazardous materials on the transport vehicle, the next step is to go to the placard tables to determine when the commodity being transported requires placarding. There are two placard tables, simply known as Table 1 and Table 2. A placard is required for any amount of a hazard class found in Table 1.⁶⁰

TABLE 1

<u>Hazard Class</u>	<u>Placard Name</u>
1.1	Explosives 1.1
1.2	Explosives 1.2
1.3	Explosives 1.3
2.3	Poison Gas
4.3	Dangerous When Wet
6.1(PG I, Inhalation Hazard Only)	Poison
7 (Radioactive Yellow III Label Only)	Radioactive ⁶¹

PLACARD ANY AMOUNT OF TABLE 1

The placarding requirements for Table 2 commodities are as follows:

- (A) A transport vehicle which contains 1001 pounds aggregate gross weight of hazardous material found in Table 2 must be placarded.⁶²
- (1) Please notice the phrase "aggregate gross weight" as used above. To get the aggregate gross weight, add the amounts of all Table 2 commodities found on the hazardous material shipping papers together. For example, if you have a shipment of 600 pounds of Hazard Class 3 and 500 pounds of Hazard Class 8 on the same transport vehicle, a placard would be required as the aggregate gross weight of Table 2 commodities being transported totals 1100 pounds.
- (2) A carrier may use the "Dangerous" placard instead of separate placards for each Table 2 hazard class when:

- (A) they are transporting two or more Table 2 hazard classes, requiring different placards that total 1001 pounds or more, and;
- (B) they have not loaded 5000 pounds or more of any Table 2 hazard class material at any one place.⁶³

Example: In the example used above, the carrier was transporting 600 pounds of Class 3 and 500 pounds of Class 8. Both of these hazard classes are found in Table 2. As the aggregate gross weight totals in excess of 1001 pounds, a placard is required. The carrier has the option of placarding his vehicle with both the Class 3 and Class 8 placards, or since the vehicle does not contain more than 5000 pounds of any one hazard class, the carrier may opt to use the "Dangerous" placard.

- (B) Any amount of Table 2 hazard classes must be placarded if being transported in a cargo tank or portable tank.⁶⁴

Table 2

<u>Hazard Class</u>	<u>Placard Name</u>
1.4	Explosives 1.4
1.5	Explosives 1.5
1.6	Explosives 1.6
2.1	Flammable Gas

2.2	Non - Flammable Gas
3	Flammable
Combustible Liquid	Combustible
4.1	Flammable Solid
5.1	Oxidizer
5.2	Organic Peroxide
6.1(PG I or II, Non - Inhalation Hazard)	Poison
6.1(PG III)	Keep Away From Food
8	Corrosive
9	Class 9 ⁶⁵

**PLACARD 1,001 POUNDS OR MORE OF TABLE 2 OR ANY
AMOUNT THAT IS TRANSPORTED IN A CARGO TANK OR
A PORTABLE TANK**

Comments: Vehicles that are controlled and operated by government agencies in the conduct of governmental functions are not subject to placarding. Only when a governmental agency offers hazardous material in commerce or transports hazardous material in furtherance of a commercial enterprise are its vehicles required to be placarded. Examples of this would be as follows: the commercial type operations of a government entity, such as a city owned public utility, that transports hazardous material would be subject to the placarding regulations, but the non-commercial operations of a governmental entity, such as street maintenance operations, would not be subject to the placarding regulations when transporting hazardous

materials.⁶⁶

- (5) **X - Combination of Endorsements N and H:** This endorsement is used to combine the tank endorsement and the hazardous material endorsement. The primary use of this endorsement will be for hazardous materials being transported in cargo or portable tanks.⁶⁷

Endorsement Requirements for Tow Truck Operators and Mechanics:

- (A) If the driver's towing operations are restricted to emergency "first moves" from the site of a malfunction or accident to the nearest appropriate repair facility, then this driver will not be required to possess any kind of CDL endorsement.⁶⁸
- (B) If the driver's towing operations include any subsequent moves from one repair facility to another, then endorsements requisite to the vehicles being towed are required. There is one exception. Tow truck operators need not obtain the passenger endorsement in this instance.⁶⁹
- (C) Inspectors for motor vehicle inspection certificates and mechanics who test drive vehicles must have the proper CDL with appropriate endorsements if the vehicle meets the criteria for a commercial motor vehicle.⁷⁰

This completes our examination of the CDL endorsements. Now we will examine the restrictions that can be imposed on a CDL.

Restrictions:

- (1) **M - Intrastate Operation Only Restriction:** With this

restriction, the licensee is restricted to operating a commercial motor vehicle in intrastate commerce only and may not drive in interstate commerce.⁷¹ Interstate commerce is the transportation of persons or property (a commodity) which crosses state or international boundaries.⁷² Intrastate commerce is the transportation of persons or property (a commodity) within the State of Texas where both the point of origin and the destination point are within the state and where no state line or international boundary is crossed.⁷³ The bill of lading will be an indicator as to whether a shipment is interstate or intrastate.⁷⁴ A resident of another state who has a valid CDL from their home state that is restricted to intrastate operation may operate a commercial motor vehicle in Texas as long as the transportation of persons or property is in intrastate commerce. If the transportation of persons or property crosses a state line, the driver is engaged in interstate commerce and would be in violation of the CDL intrastate restriction.⁷⁵ The most common reasons for the imposition of this restriction are age, language requirements and an inability to meet the physical and vision requirements necessary for interstate operation.

- (2) **L - Vehicles Without Air Brakes:** With this restriction, the licensee is restricted to operating a commercial motor vehicle which does not have air brakes.⁷⁶ For the purpose of this restriction, air brakes shall include any braking system operating fully or partially on the air brake principle.⁷⁷

- (3) **X - Licensed CDL Operator in the Front Seat - All Classes of Commercial Motor Vehicles:** The licensee is the holder of any class CDL but is restricted to operating the class of commercial motor vehicle authorized only while accompanied by a holder of a CDL which is valid for the vehicle being operated. The purpose of this restriction is to give the person an opportunity to practice driving the vehicle and obtain experience.⁷⁸
- (4) **Y - Licensed CDL Operator in the Front Seat - Commercial Motor Vehicles Above Class B:** The licensee has a Class A CDL but is restricted to operating a Class A commercial motor vehicle while accompanied by a holder of a CDL which is valid for a Class A vehicle. The purpose of this restriction is to give the person an opportunity to practice driving a Class A vehicle and obtain experience. This person may legally operate a Class B or Class C commercial motor vehicle alone.⁷⁹
- (5) **Z - Licensed CDL Operator in the Front Seat - Commercial Motor Vehicles Above Class C:** The licensee has a Class A CDL or Class B CDL but is restricted to operating a Class A or Class B commercial motor vehicle while accompanied by a holder of a CDL which is valid for the class of vehicle being operated. The purpose of this restriction is to give the person an opportunity to practice driving a Class A or Class B commercial motor vehicle and obtain experience. This person may legally operate a Class C commercial motor vehicle alone.⁸⁰

A CDL with restriction X, Y, or Z is considered a commercial driver license learner's permit. The penalty for violation of

Section 21 is a Class C misdemeanor, up to a \$500.00 fine.

(See Appendix 1)

- F. Section 26:** Section 26 covers prohibited alcohol violations by commercial motor vehicle drivers who are required to possess a CDL. Section 26 states that a person may not drive, operate, or be in physical control of a commercial motor vehicle in this state while having any measurable or detectable amount of alcohol in the person's system.⁸¹ Notice that the section states "any measurable or detectable amount" of alcohol is prohibited. In this section, "any amount" means just that, any amount, including a driver on which only the odor of alcohol can be detected coming from his/her breath.

Section 26 further states that a person who drives, operates, or is physical control of a commercial motor vehicle in this state while having any measurable or detectable amount of alcohol in his system or who refuses to submit to an alochol test under Section 27 of this article, must be placed out of service for 24 hours. A peace officer may issue an out-of-service order based on probable cause that the person has violated this section. The order must be on a form approved by the deparment (i.e. Texas Department of Public Safety). An order issued under this section shall be submitted by the peace officer to the department (i.e. Texas Department of Public Safety).⁸²

Comments: Please notice that Section 26 does not give an officer who detects a person who is required to possess a CDL and operating a commercial motor vehicle with any measurable or

detectable alcohol in his system any discretion as to the course of action the officer must follow. Section 26 mandates that this driver must be placed out of service for 24 hours. To place a driver out of service, the officer must use the appropriate DPS form. This is the MCS-10 form. An example of the MCS-10 form is located in Appendix 2. The form is self-explanatory and requires only a short time to complete. This is a self-carboning three part form. The yellow copy should be given to the driver. The blue copy is retained by the officer. The white copy is mailed by the officer to the DPS at the following address: Texas Department of Public Safety, Motor Carrier Safety Section, P.O. Box 4087, Austin, Texas 78773-0001. The MCS-10 form should be available at all DPS offices in the state. Also, please notice that Section 26 is a non-criminal offense carrying only the out of service action as a penalty for non-compliance.

- G. Section 27:** Section 27 addresses the Implied Consent Requirements for commercial motor vehicle drivers. Section 27 provides that a person who drives a commercial motor vehicle in this state is deemed to have given consent to submit to the taking of one or more specimens of the person's breath, blood, or urine for the purpose of analysis to determine the alcohol concentration or the presence in the person's body of a controlled substance or drug. A specimen or specimens may be taken at the request of a peace officer who has probable cause to believe that the driver was driving a commercial motor

vehicle while having alcohol, a controlled substance or drug in his system.⁸³

Section 27(c) requires that a person requested to submit a specimen be warned by the peace officer requesting the specimen that a refusal to submit a specimen will result in that person being immediately placed out of service for 24 hours.⁸⁴ This is done with the DIC-55 form (Appendix 3).

Section 27(d) provides that if a person refuses to give a specimen or submits a specimen that discloses an alcohol concentration of 0.04 or more, the peace officer shall submit to the department (DPS) a sworn report, on a form approved by the department, (DIC-54 - Appendix 4) certifying that the specimen was requested under this section and that the person refused to submit a specimen or submitted a specimen that disclosed an alcohol concentration of 0.04 or more.⁸⁵

Section 27(g) provides that before any administrative action can be taken against a commercial motor vehicle driver for submitting a breath specimen of 0.04 or more, the breath testing instrument must be certified as reliable and the test results were valid. This is done by obtaining a DIC-56 (See Appendix 5) from the Technical Supervisor of the instrument on which the test was conducted. The Technical Supervisor of the instrument utilized in the breath test must certify by affidavit (i.e the DIC-56) that the instrument was reliable, the analytical results were accurate and the breath test was conducted within the guidelines of the State Alcohol Testing Program.⁸⁶

General Guidelines For Submission of the DIC 54, 55 and 56:

- (1) Forms DIC-54 and DIC-55 have been designed for use as the Peace Officer's sworn report in connection with the CDL Implied Consent Law and when properly executed, will serve as a basis for disqualification of the subject's commercial motor vehicle driving privilege.
- (2) Forms DIC-54 and DIC-55, when completed, will be used as evidence in court, therefore, it is essential that extreme care be exercised in its preparation. Strike overs, erasures or failure to fill in a blank may be fatal to the successful prosecution of the case.
- (3) You must provide a brief probable cause statement to indicate why you believe that the subject was operating a commercial motor vehicle in this state while having alcohol, a controlled substance or a drug in his/her system. A full case report is not necessary in the narrative space on the DIC-54. Though not required statutorily, it is important to provide a brief statement which explains what caused you to stop the commercial motor vehicle operator.
- (4) If a subject refuses to submit a specimen of blood, breath or urine for analysis, the original DIC-54 should be attached to the DIC-55 and mailed to Driver Improvement and Control, Texas Department of Public Safety, P.O.Box 4087, Austin, Texas, 78773-0001.
- (5) If a subject provides a **Breath Specimen** that discloses an alcohol concentration of 0.04 or more, forms DIC-54 and

DIC-55 **must** be sent to the appropriate Breath Test Technical Supervisor for completion of form DIC-56. The Breath Test Technical Supervisor will forward the completed DIC-54, DIC-55 and DIC-56 to Driver Improvement and Control in Austin.

- (6) If a subject provides a blood or urine specimen that discloses an alcohol concentration of 0.04 or more, the laboratory results indicating same must be submitted with forms DIC-54 and DIC-55 to Driver Improvement and Control.

As previously noted, the primary purpose of the DIC 54, 55 and 56 evidentiary. If in a hearing, the court finds that:

- (1) probable cause existed that the person was driving a commercial motor vehicle while having alcohol, a controlled substance, or a drug in the person's system;
 - (2) the person was offered an opportunity to give a specimen under the provisions of the CDL Act; and,
 - (3) the person either submitted a specimen that disclosed an alcohol concentration of 0.04 or more, or refused to submit a specimen;
- then the DPS can disqualify the the person from driving a commercial motor vehicle for 1 year (3 years if the person was transporting hazardous material requiring a placard at the time of the offense).⁸⁷

H. Section 10: Section 10 provides a criminal penalty for operating a CMV while a person's CDL is in a disqualified status. Section 10 states that a person commits an offense if the person drives a commercial motor vehicle after the person's driver's license has

been suspended, revoked, canceled, denied, disqualified or is prohibited from obtaining a driver's license.⁸⁸ A violation of Section 10 is a Class B misdemeanor. (See Appendix 1)

Comments: Remember that a person who has been placed out-of-service is prohibited from driving a commercial motor vehicle. So if a commercial motor vehicle operator is placed out-of-service for a violation of Section 26 and that driver fails to comply with the 24 hour out-of-service order, then this driver is driving while prohibited, and is therefore in violation of Section 10 and subject to the enhanced penalty provided for in that Section (See Appendix 2).

V. Information Required on Traffic Citations

A traffic citation issued to a person driving a commercial motor vehicle, or who is the holder of a CDL or CDL learner's permit, for a violation of any law regulating the operation of vehicles on highways, must be on a form that contains the following information:

- (1) the name, address, physical description, and date of birth of the subject being charged;
- (2) the number, if any, of the person's driver's license;
- (3) the registration number of the vehicle involved;
- (4) whether the vehicle was a commercial motor vehicle as defined in the Texas CDL Act;
- (5) whether the vehicle was involved in the transporting of hazardous materials; and,
- (6) the date and nature of the offense, including whether the offense

was a serious traffic violation.⁸⁹

(A) A serious traffic violation means a conviction arising from the driving of a commercial motor vehicle for:

- (1) excessive speeding, involving a single charge of any speed 15 mph or more above the posted speed limit;
- (2) reckless driving;
- (3) a violation of any state or local law related to motor vehicle traffic control, including any law regulating the operation of vehicles on highways, other than parking, arising in connection with a fatal accident. Serious traffic violations do not include vehicle weight and vehicle defect violations;
- (4) improper or erratic traffic lane change; or
- (5) following the vehicle ahead too closely.⁹⁰

Comments: Since an improper or erratic lane change is not an offense title in Texas, the Texas Department of Public Safety has designated the following sections of the Uniform Act Regulating Traffic on the Highways (Texas Civil Statutes, Articles 6701d) as "serious traffic violations" for improper or erratic lane changes:

- (1) Texas Civil Statutes, Article 6701d, Section 60(a) - "Changed Lane When Unsafe" and,
- (2) Texas Civil Statutes, Article 6701d, Section 60A - "Failure to Yield Right-of-Way - Changing Lanes."⁹¹

VI. Epilogue

There are more than 150 million licensed drivers in the United States today, all of whom deserve reasonable assurance that their fellow motorists are properly qualified to drive the vehicles they operate.⁹² Most of the more than 6 million commercial drivers in this country are law-abiding citizens, but some abuse the driving privilege, giving safe drivers a bad reputation.⁹³ To protect the reputation of the good drivers, as well as help preserve the lives of everyone who uses our nation's highways, the U.S. Congress passed the CDL Act to insure that all commercial drivers use only one license, and that they are properly trained and prepared for the responsibility of safely driving a large vehicle.⁹⁴

Prior to the passage of the CDL Act, in some states, any person licensed to drive an automobile could also legally drive a tractor-trailer or a bus. No special training or special license was required, even though it is widely recognized that certain types of vehicles call for special skills, knowledge, training and other qualifications.⁹⁵ There were too many drivers operating vehicles that they may not have been qualified to operate.

Another serious problem was that presented by multiple driver licenses. Some commercial drivers were able to avoid possible license suspension or revocation for traffic law violations by holding driver licenses in more than one state.⁹⁶ By spreading their convictions among several licenses, these drivers were able to stay ahead of the law, and unfortunately, stay behind the wheel.⁹⁷

A serious public safety need existed and in response to this

need, the U.S. Congress enacted the Commercial Motor Vehicle Safety Act of 1986. In compliance with this statute, the Texas Legislature in 1991, passed House Bill 1342, which created the Texas Commercial Driver's License Act. The purpose of this Act is to reduce or prevent commercial motor vehicle accidents, fatalities, and injuries by:

- (1) permitting commercial drivers to hold only one driver's license;
- (2) disqualifying commercial drivers who have committed serious traffic violations or other specified offenses; and
- (3) strengthening commercial driver licensing and testing standards.⁹⁸

However, little information about the specific requirements of the Texas CDL Act has been disseminated to the local law enforcement agencies. Based on the sheer number of licensed CDL driver's, both in Texas and nationwide, the traffic patrol officers of our local law enforcement agencies must be given the capabilities to effectively deal with these CDL driver's on a daily basis. Through utilization of the information presented in this paper, the traffic patrol officer will be able to not only determine the need for a CDL, but also if any additional CDL endorsements are required, what the restrictions imposed on the driver are, and what disqualification action to take dependent on the violations detected during the initial traffic contact with the commercial vehicle operator.

As we have seen, within the Texas CDL Act, there are specific requirements imposed upon the officer. Law Enforcement Administrator's must also become aware of these requirements in order to implement appropriate training for their personnel. As is the case

in most law enforcement issues, a failure to act as required by statute or court interpretation, could expose the agency, as well as the administrator and officer, to substantial liability. In this day and time, with most public agency budgets facing shortfalls, a liability judgement for failure to act could devastate an agency's capabilities to meet current and future public safety needs within the community they serve.

CDL VIOLATIONS

1. More than one driver license in possession - CMV
6687b-2, sec. 4
2. No driver license - CMV
6687b-2, sec. 9
3. Failed to report change of address (or name) - CDL
6687b-2, sec. 18(c)
4. No Texas CDL - Domiciled over 30 days
6687b-2, sec. 18(d)
5. Endorsement Violation - CMV
6687b-2, sec. 21(a)
6. Restriction Violation - CMV
6687b-2, sec. 21(a)

Class C Misdemeanor - fine not to exceed \$500.00

**Driving While License Suspended, Revoked, Canceled, Denied,
or Expired, or While Prohibited, 6687b-2, sec. 10**

Class B Misdemeanor

Fine - \$100 to \$500

- and -

Jail - 72 hours to 6 months

Subsequent DWLS - Class A Misdemeanor

24 HOUR OUT-OF-SERVICE ORDER

MCS-10 (6/92)

MOTOR CARRIER'S NAME _____

MOTOR CARRIER'S ADDRESS _____

VEHICLE MAKE _____ LICENSE NUMBER _____ STATE _____ VIN _____

DRIVER'S NAME _____
(LAST) (FIRST) (MIDDLE)

ADDRESS _____ CITY _____ STATE _____ ZIP _____

DRIVER LICENSE/ID NUMBER _____ STATE _____ DATE OF BIRTH _____ RACE/SEX _____

Article 6687b-2 Section 26 V.T.C.S. provides a person who drives, operates, or is in physical control of a commercial motor vehicle in this state while having any measurable or detectable amount of alcohol in his system or who refuses to submit to an alcohol test under Section 27 of this article, must be placed OUT-OF-SERVICE for 24 hours.

Pursuant to the authority contained in Article 6687b-2 Section 26 V.T.C.S. I hereby notify and declare the driver named in this order "OUT-OF-SERVICE" and temporarily prohibited from driving a commercial motor vehicle for a 24 hour period ending at _____ am/pm _____ (date).

Probable cause for issuing this OUT-OF-SERVICE Order: _____ Driver was detected with an odor of an alcoholic beverage about his breath, _____ Driver submitted a BAC test indicating a measurable amount of alcohol in his system, _____ Driver refused to submit to an alcohol test. (check one or more)

Officer's Name Badge or ID

Department

Address City State Zip

Notwithstanding any other law of this state, OUT-OF-SERVICE means a person may not temporarily drive, operate, or be in physical control of a commercial motor vehicle in this state.

I understand and acknowledge receipt of the above OUT-OF-SERVICE Order:

Driver's Signature _____

A person commits an offense if the person drives a commercial motor vehicle on a public highway during a period that the person was subject to an OUT-OF-SERVICE order. The criminal offense of violating an OUT-OF-SERVICE Order is punishable as provided for an offense under Section 34 Article 6687b V.T.C.S.

**PEACE OFFICER STATUTORY WARNING
FOR COMMERCIAL MOTOR VEHICLE OPERATORS**

DIC-55 (1-92)

Date _____
Time _____
Place _____

Full Name of Subject (print or type)

Drivers License/I.D. No. or None

Date of Birth

There is probable cause to believe that you were driving a commercial motor vehicle while having alcohol, a controlled substance or a drug in your system. You will be requested to submit to the taking of a specimen of your Breath Blood Urine (check one) for the purpose of analysis to determine the alcohol concentration or the presence of a controlled substance or drug in your body.

If you refuse to give a specimen or submit a specimen that discloses an alcohol concentration of 0.04 or more you will be immediately placed out of service for 24 hours, and that refusal or specimen may be admissible in a subsequent prosecution. Your privilege to operate a commercial motor vehicle will be automatically disqualified for one (1) year (3 years if transporting a hazardous material required to be placarded), after notice is sent to you, whether or not you are subsequently prosecuted. If you do not possess a license or permit to operate a commercial motor vehicle, you may not be issued a driver license or permit to operate a commercial motor vehicle for a period of one (1) year (3 years if transporting a hazardous material required to be placarded), after notice is sent to you. Further you have the right within twenty (20) days after receiving written notice of a disqualification or a denial of a license, permit, or privilege to request in writing a hearing on the disqualification or the denial. If you make a timely request for a hearing, your license, permit, or privilege to operate a motor vehicle will not be disqualified or denied until the hearing has been held and the court so orders. If the court finds that probable cause existed that you were driving a commercial motor vehicle while having alcohol, a controlled substance or a drug in your system, were offered an opportunity to give a specimen under the provisions of the law and that you refused to give a specimen or submitted a specimen that discloses an alcohol concentration of 0.04 or more, upon request of the officer, then the court may order a disqualification or denial.

Further, a person who drives, operates, or is in physical control of a commercial motor vehicle in this state while having any measurable or detectable amount of alcohol in his system must be placed out of service for 24 hours.

I certify that I have orally informed you of the consequences of a refusal or submitting a specimen that discloses an alcohol concentration of 0.04 or more and have provided you with a complete and true copy of this statutory warning. I now request that you submit to the taking of a specimen of your Breath Blood Urine (check one) for the purpose of analysis to determine the alcohol concentration or the presence of a controlled substance or drug in your body.

Officer's Signature

* THE SECTION BELOW IS TO BE COMPLETED ONLY WHEN SUBJECT REFUSES TEST

I have requested that you give a specimen of your Breath Blood Urine (check one) after informing you of the consequences of not giving a specimen. You have refused to give a specimen. I request that you sign this statement indicating your refusal.

Subject's Signature

I certify that the above named individual was duly admonished as to the consequences of his/her refusal to give a specimen of Breath Blood Urine (check one). He/She refused to give a specimen and he/she further signed refused to sign (check one) the statement set out above when requested to do so by this officer.

Signed _____
Officer's Signature Badge No. or ID.

Department _____

Address _____
Street (PO Box) City State Zip Code

PEACE OFFICER SWORN REPORT FOR COMMERCIAL MOTOR VEHICLE OPERATORS

STATE OF TEXAS

DIC-54 (3-92)

COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____ to me well known and known to me to be a credible person, who having been by me duly sworn, deposed and said:

My name is _____, and I am a duly constituted Peace Officer. This is to certify
(Print or type)

that _____
Name

Home address _____
Street City State Zip Code

License State _____
Class & No. _____, CDL _____ Soc. Sec. No. _____, D.O.B. _____
Yes No

was operating a commercial motor vehicle and _____ was _____ was not transporting a hazardous material required to be placarded
(check one)

on the _____ day of _____, 19 _____, at _____ County,

Texas. This person was duly requested by a peace officer to give a specimen of his/her _____ blood, _____ breath or _____ urine (check one) for the purpose of analysis to determine the alcohol concentration or the presence in his/her body of a controlled substance or drug. This person was informed both orally and in writing as to the consequences of his/her refusal to give a specimen or submitting a specimen that discloses an alcohol concentration of 0.04 or more as set out in detail in the attached document, Peace Officer Statutory Warning for Commercial Motor Vehicle Operators (DIC-55), which is hereby specifically incorporated by reference for all purposes, as if written and copied herein. Subsequent to and immediately after said request this person:

_____ refused to submit to such test

_____ submitted a specimen that disclosed an alcohol concentration of 0.04 or more

It is further certified that I had reasonable grounds to believe, and do believe, that this person was driving or in actual physical control of a commercial motor vehicle in this State while having alcohol, a controlled substance or a drug in his/her system. Facts in support of this belief are:

Affiant

SWORN TO AND SUBSCRIBED before me on the

_____ day of _____, 19 _____.

My commission expires:

Officer's Signature _____ Badge or ID No. _____

Department

Street or PO Box _____ City _____ State _____ Zip Code _____

Notary Public's Signature, State of Texas
Notary's printed name: _____

(seal)

BREATH TEST TECHNICAL SUPERVISOR AFFIDAVIT

DIC-56 (3-92)

STATE OF TEXAS

COUNTY OF _____

Before me, the undersigned authority, personally appeared _____,
who, being by me duly sworn, deposed as follows.

My name is _____, I am over 18 years of age, of sound
mind, capable of making this Affidavit, and personally, acquainted with the facts herein stated.

I am the custodian of the records and the Certified Technical Supervisor for Area _____, Texas Breath
Alcohol Testing Program. This affidavit is made in accordance with the provisions of Section 27(g), Article
6687b-2, V.T.C.S., (Texas Commercial Driver License Act).

On or about _____ C___T on _____ a breath test was administered to a subject by the name of
_____ DOB _____.

The test was conducted on a certified instrument, namely a Model 5000 Intoxilyzer, serial number
_____, as part of the certified breath test program at _____, TEXAS.

The test was conducted by a certified breath test operator who is trained in the required methodology
for breath testing, namely _____, #_____.

The records show that the test was administered in compliance with the laws of the State of Texas and
Regulations of the Texas Breath Alcohol Testing Program. Further, the records show that the aforesaid
instrument was reliable and in proper working condition at the time of the test. The test is, therefore, a
valid test according to the aforesaid Regulations.

Analytical results of the aforesaid test disclosed alcohol concentrations of _____
and _____, both of which were valid analytical results.

Signature

SWORN TO AND SUBSCRIBED before me on this _____ day of _____, 199____.

My commission expires:

Notary Public's Signature, State of Texas

Notary's printed name: _____

DIC-56 Should accompany DIC-54 and DIC-55
when a breath specimen of 0.04 or more is provided

ENDNOTES

1. 59 Fed. Reg. 26029 (1994) (to be codified at 49 C.F. R. Part 384).
2. Interview with JoLene Hughes, Texas Department of Public Safety, Commercial Driver's License Section (Sept. 7, 1994).
3. Ibid.
4. Federal Highway Administration, U.S. Dep't. of Transportation, Pub. FHWA-94-013 (1994), Alcohol and Drug Rules.
5. Tex. Rev. Civ. Stat. Ann. art. 6687b-2, sec. 3 (Vernon 1993).
6. Ibid.
7. Ibid.
8. Ibid.
9. Ibid.
10. 58 Fed. Reg. 60736 (1993) (to be codified at 49 C.F.R. Chapter III).
11. 37 Tex. Admin. Code, sec. 16.3 (West 1993) (Texas Department of Public Safety, Commercial Driver License).
12. Tex. Rev. Civ. Stat. Ann. art. 6687b-2, sec. 3 (Vernon 1993).
13. 37 Tex. Admin. Code, sec. 16.3 (West 1993) (Texas Department of Public Safety, Commercial Driver License).
14. Ibid.
15. Ibid.
16. Ibid.
17. Ibid.
18. 58 Fed. Reg. 60735 (1993) (to be codified at 49 C.F.R. Chapter III).
19. Ibid.
20. Tex. Rev. Civ. Stat. Ann. art. 6687b-2, sec. 9 (Vernon 1993).
21. Ibid.

22. 37 Tex. Admin. Code. sec. 16.5 (West 1993) (Texas Department of Public Safety, Commercial Driver License).
23. Ibid.
24. Ibid.
25. 58 Fed. Reg. 60735 (1993) (to be codified at 49 C.F.R. Chapter III).
26. Tech. Adv. Mem., Texas Department of Public Safety (Jan. 7, 1993).
27. Tech. Adv. Mem., U.S. Dep't. of Transportation (Nov. 14, 1990).
28. Tex. Rev. Civ. Stat. Ann. art. 6687b-2, sec. 15 (Vernon 1993).
29. Tex. Rev. Civ. Stat. Ann. art. 6687b-2, sec. 4 (Vernon 1993).
30. 57 Fed. Reg. 31454 (1992) (to be codified at 49 C.F.R. Part 383).
31. 58 Fed. Reg. 60737 (1993) (to be codified at 49 C.F.R. Chapter III).
32. Tex. Rev. Civ. Stat. Ann. art. 6687b-2, sec. 18 (Vernon 1993).
33. Tex. Rev. Civ. Stat. Ann. art. 6687b-2, sec. 3 (Vernon 1993).
34. 49 C.F.R. Part 383.153 (1994).
35. 58 Fed. Reg. 60740 (1993) (to be codified at 49 C.F.R. Chapter III).
36. Texas Rev. Civ. Stat. Ann. art. 6687b-2, sec. 21 (Vernon 1993).
37. 37 Tex. Admin. Code, sec. 16.4 (West 1993) (Texas Department of Public Safety, Commercial Driver License).
38. Ibid.
39. 58 Fed. Reg. 60736 (1993) (to be codified at 49 C.F.R. Chapter III).
40. 58 Fed. Reg. 60740 (1993) (to be codified at 49 C.F.R. Chapter III).

41. 37 Tex. Admin. Code, sec. 16.4 (West 1993) (Texas Department of Public Safety, Commercial Driver License).

42. Ibid.

43. Tex. Rev. Civ. Stat. Ann. art 6687b-2, sec. 21 (Vernon 1993).

44. 37 Tex. Admin. Code, sec. 16.12 (West 1993) (Texas Department of Public Safety, Commercial Driver License).

45. 58 Fed. Reg. 60740 (1993) (to be codified at 49 C.F.R. Chapter III).

46. Ibid.

47. 37 Tex. Admin. Code, sec. 16.12 (West 1993) (Texas Department of Public Safety, Commercial Driver License).

48. 58 Fed. Reg. 60740 (1993) (to be codified at 49 C.F.R. Chapter III).

49. 37 Tex. Admin. Code, sec. 16.12 (West 1993) (Texas Department of Public Safety, Commercial Driver License).

50. 49 C.F.R. Part 383.5 (1994).

51. 49 C.F.R. Part 171.8 (1993).

52. Ibid.

53. 58 Fed. Reg. 60740 (1993) (to be codified at 49 C.F.R. Chapter III).

54. 37 Tex. Admin. Code, sec. 16.12 (West 1993) (Texas Department of Public Safety, Commercial Driver License).

55. 49 C.F.R. Part 171.8 (1993).

56. Ibid.

57. Research and Special Programs Administration, U.S. Dep't. of Transportation, Pub. 5800.0 (1993), Emergency Response Guidebook.

58. 49 C.F.R. Part 173.2 (1993).

59. 49 C.F.R. Part 171.8 (1993).

60. 49 C.F.R. Part 172.504 (1993).

61. Ibid.

62. Ibid.
63. Ibid.
64. Ibid.
65. Ibid.
66. 58 Fed. Reg. 60735 (1993) (to be codified at 49 C.F.R. Chapter III).
67. 37 Tex. Admin. Code, sec. 16.12 (West 1993) (Texas Department of Public Safety, Commercial Driver License).
68. 37 Tex. Admin. Code, sec. 16.5 (West 1993) (Texas Department of Public Safety, Commercial Driver License).
69. Ibid.
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