

What You Don't Know Can Hurt You— The Consequences of Masking Traffic Offenses

Vermont Highway Safety Conference
Killington, VT | March, 26, 2024

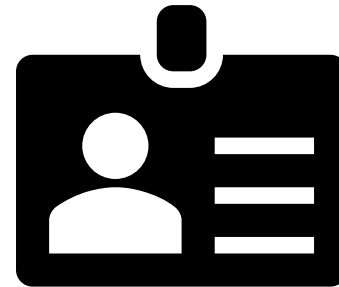
NTLC

NATIONAL TRAFFIC LAW CENTER

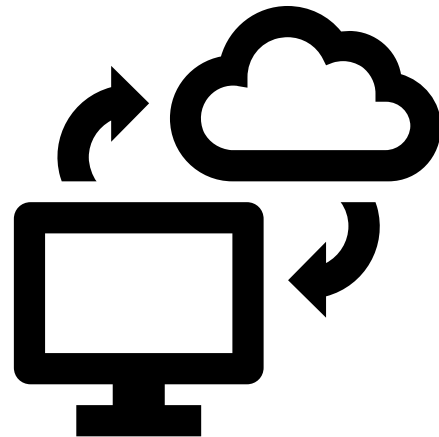




One Driver.



One
License.

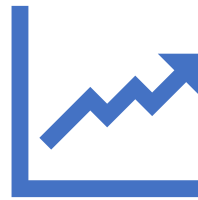


One Record.

Why be concerned about CDL cases?



CMV crashes are more likely to be fatal



CMV crashes are disproportionately high



Even fender benders are more likely to be deadly

Statistics

- There were 4,014 fatalities due to large truck crashes 2020.
- 15% were truck occupants, 68% were occupants of cars and other passenger vehicles, 16% were pedestrians, bicyclists or motorcyclists.



Statistics

- In 2020, at least one driver-related factor was recorded for 32% of the large truck drivers in fatal crashes.
- Most common factors
 - Speeding of any kind
 - Impairment – Fatigue, Alcohol, Illness

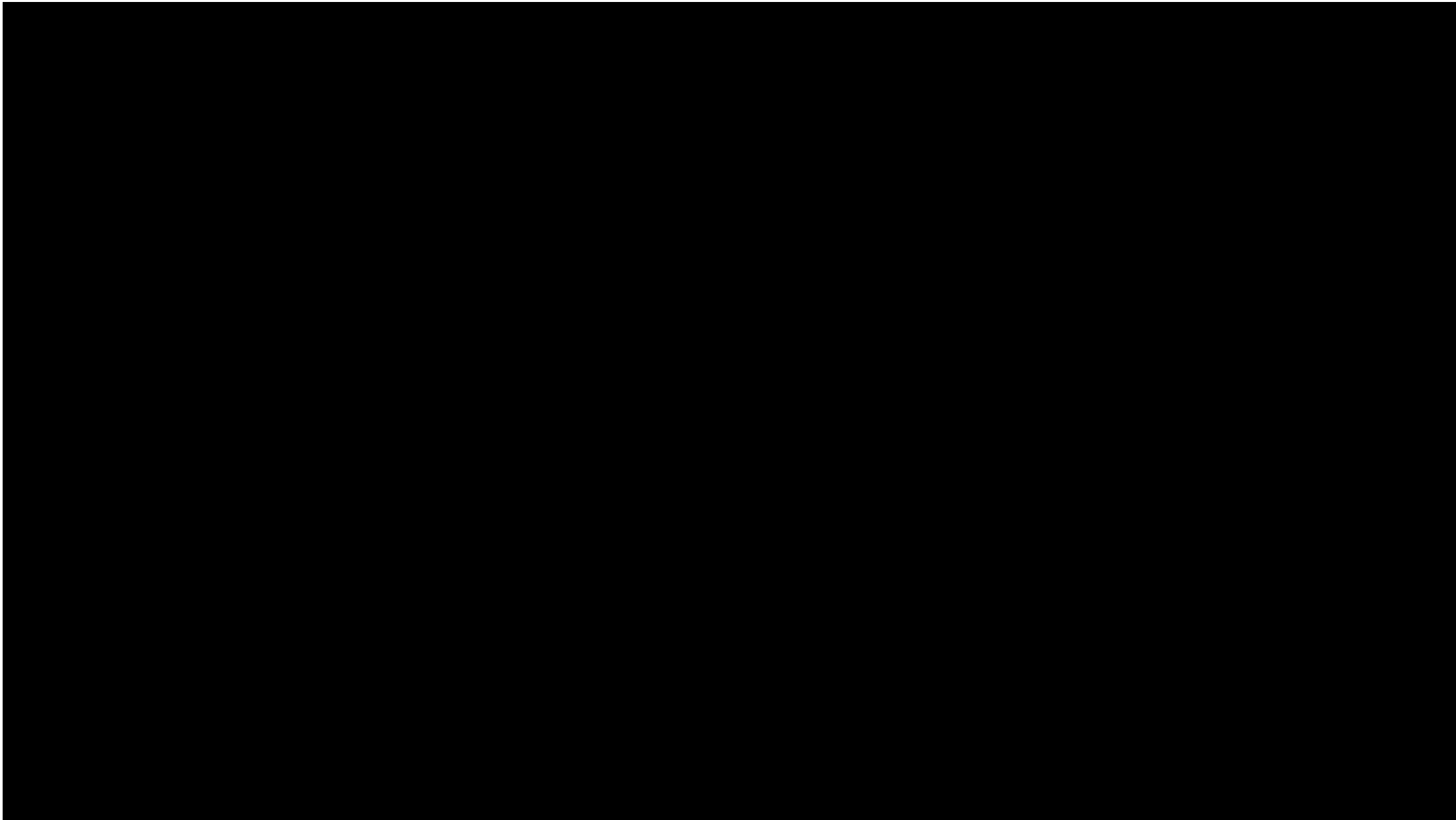


2022 ATRI Study: Predictors of Future Crash Involvement

Driver Behavior	Future Crash Likelihood Increase
A Failure to Yield Right-of-Way Violation	141%
A Failure to Use/Improper Signal conviction	116%
A Past Crash	113%
A Reckless Driving violation	104%
A Failure to Obey Traffic Sign conviction	85%
A Failure to Keep in Proper Lane conviction	78%
An Improper or Erratic Lane Changes violation	77%
A Reckless/Careless/Inattentive/Negligent Driving conviction	62%
An Improper Lane/Location conviction	61%
A Failure to Obey Traffic Signal/Light conviction	55%
A Speeding 1 to 15 miles Over Speed Limit conviction	48%

Who are the CDL drivers that can be predicted to be involved in a crash?

Overall, almost seven percent (6.6%) of all CDL drivers in this analysis were convicted of an offense.



(Absolutely
No)
Masking:
Black's Law
Dictionary

Masking n.

1. Criminal law. The practice or an instance of a defendant's agreeing by plea bargain to plead guilty to a less serious offense than the one originally charged, as by pleading guilty to parking on the curb when one has been charged with speeding in a school zone.
2. In critical legal studies, the act or an instance of concealing something's true nature <being a crit, Max contends that the legal system is merely an elaborate masking of social injustices>. — mask, vb.

MASKING, Black's Law Dictionary
(11th ed. 2019)

Masking: 49 CFR 384.226

“The State must not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a CDL driver’s conviction, for any violation, in any type of motor vehicle, of a State or local traffic control law (other than parking, vehicle weight, or vehicle defect violations) from appearing on the driver’s record, whether the driver was convicted for an offense committed in the State where the driver is licensed in another State.”

Federal Prohibition Against Masking (49 CFR 384.226)

The State must not:

- Mask
- Defer imposition of judgment
- Allow diversion program
- That would prevent a CDL holder's conviction

Federal Prohibition Against Masking

- For **ANY violation** of a State or local traffic control law (except parking, vehicle weight or vehicle defect)
- In **ANY vehicle**
- From appearing on **CDL*** Holder's driving record
- Whether or not convicted in home state or out-of-state

* Or CLP Holder

Actions Constituting Masking

Deferral

- “Continued for Dismissal”
- Adjournment pending dismissal

Diversion

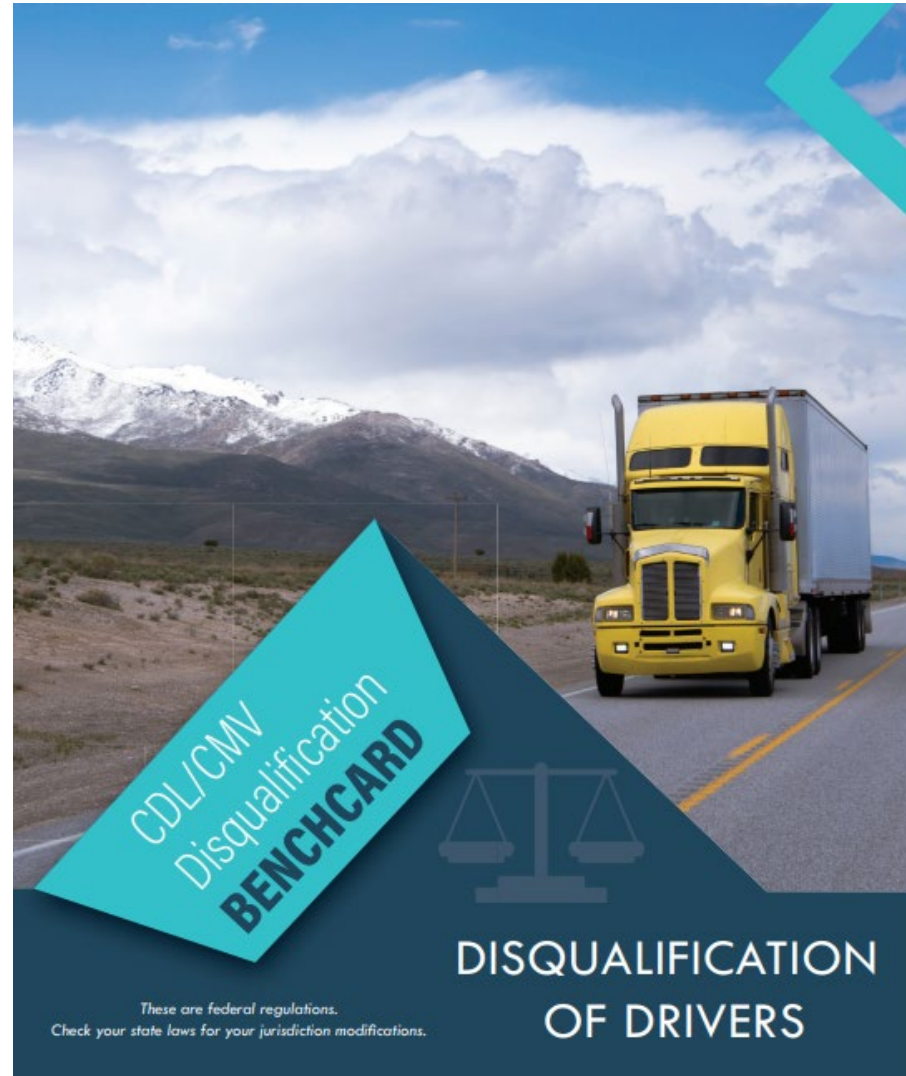
- Permitting a CDL/CLP Holder, after determination of guilt, to perform actions that will result in conviction being downgraded or erased
- Examples: “Stay of adjudication,” Community Service, Traffic School, Drug/DWI Court

Consequences of State Non-Compliance (49 C.F.R. § 384.401 (a) and (b) (2021)).

Withholding Millions in Highway Funds

- Up to 4% of Federal-aid highway funds after 1st Year
- Up to 8% After 2nd Year and subsequent year(s) of noncompliance

Disqualification



CDL/CMV
Disqualification
BENCHCARD

DISQUALIFICATION
OF DRIVERS

*These are federal regulations.
Check your state laws for jurisdiction modifications.*

It is Not Just a Best Practice

It is required by the Federal Regulations

- Because of the higher crash likelihood
- To ensure a COMPETE record for CDL holders
- To hold offending CDL holders accountable
- And thereby prevent the dangerous drivers from putting other roadway users at risk
- 49 CFR 384.301 Substantial compliance

It is Our Duty!

CAVEAT:

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National Traffic Law Center Resources

Funding

Mission

Assistance

Technical assistance

Develop and update training curriculum

Newsletter

TSRPs across the nation

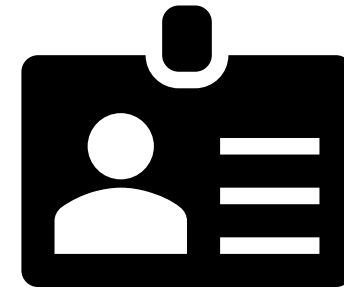
Products for download



Questions? Or Comments?



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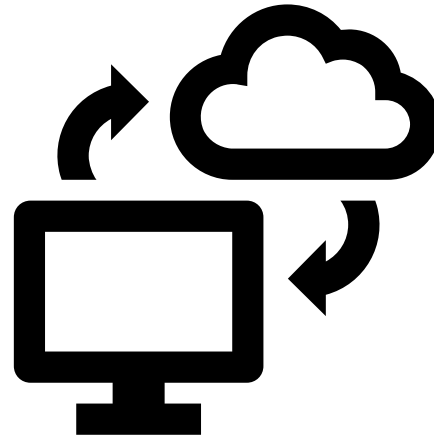
One
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One Record.