

SECOND PARISH TRAFFIC COURT REACHING NEW HORIZONS

MY CLIENT HAS A COMMERCIAL DRIVER'S LICENSE (CDL) AND A DRIVING UNDER THE INFLUENCE CHARGE (DUI)

Presented by: Hon. Raylyn R. Beevers
Judge Second Parish Court

COMMON TERMS: Commercial Motor Vehicle (CMV)
Commercial Driver's License (CDL)
Commercial Learner's Permit (CLP)

I. ADMINISTRATIVE AND CRIMINAL

1. ADMINISTRATIVE - The administrative hearing addresses the suspension of your client's driver's license.

HOW DOES MY CLIENT BENEFIT BY AN ADMINISTRATIVE HEARING?

When your client is arrested/refuses to submit to the blood alcohol concentration (BAC) test, his license will be seized and a temporary license given. This temporary driver's license has the full force and effect of a full license for 30 days.

However, if an administration hearing is requested the temporary driver's license will be extended until completion of the administrative hearing. This is critical if your client has a Class A, B, or C Commercial Driver's License (CDL) and operates a commercial motor vehicle (CMV).

HOW DO I REQUEST AN ADMINISTRATIVE HEARING?

1. Request for administrative hearing must be in writing.
2. Request must be postmarked or received at the Office of Motor Vehicle within 30 calendar days from the date of arrest.

If you fail to request an administrative hearing in accordance with the rules, the CDL will automatically be suspended.

2. **CRIMINAL** - The court process addresses the DUI charge itself.

Note: If your client has multiple charges, arising out of the same occurrence, and is convicted, his driver's license suspension runs concurrently with the administrative suspension. However, if the administrative suspension time has been completed, then the conviction suspension runs consecutive.

MY CLIENT HAS A CDL NOW BUT DID NOT HAVE A DRIVER'S LICENSE AT THE TIME OF THE VIOLATION. IF HE PLEADS TO VIOLATION HOW DOES IT AFFECT HIS CDL?

The disqualification is imposed regardless of the license class held at the time of the violation or even if your client did not have a driver's license at the time of the violation.

IS THE DISQUALIFICATION ONLY FOR LOUISIANA?

No, the disqualification is reported to the Department of Transportation in Washington, D.C.

WHAT IS CONSIDERED A SERIOUS CMV VIOLATION?

- Speeding 15 or above
- Following too closely
- Reckless Operation
- Improper / erratic lane change
- Fatal accident violation
- Driving a CMV without proper Class / Endorsements
- Driving a vehicle without first obtaining a CDL
- Driving a CMV without a CDL or CLP in the driver's possession
- Texting while driving a CMV

Railroad - Highway Grade Crossing Violations:

Railroad crossing restriction
Railroad traffic control device or enforcement official
Failure to slow down when not required to always stop
Failure to stop when tracks are not clear
Stopping before clearing railroad grade crossing
Insufficient undercarriage clearance
Failure to stop

WHAT IS THE DIFFERENCE BETWEEN DISQUALIFICATION AND SUSPENSION?

DISQUALIFICATION - will only disqualify the CMV driving privileges. Disqualification means the individual cannot operate a CMV during the disqualification period, but is allowed to operate other motor vehicles.

SUSPENSION - suspends **all driving privileges regardless of the type of vehicle being operated**. This means the individual cannot operate any vehicle (personal or CMV) during the suspension period.

IS THERE A BENEFIT TO DOWN-GRADING A CDL?

DOWN-GRADE - If an operator is "disqualified only" and there are no suspensions or revocations on the driving record,

- he may continue to drive a personally owned vehicle
- by down-grading his operator's license from a Class A, B or C license or
- CLP (Learner's permit) to a Class D or E license
- After the disqualification period has been served, the Office of Motor Vehicles will collect a reinstatement fee.

MAJOR DISQUALIFYING VIOLATIONS

If the operator (holding a Class A, B or C driver's license or CLP) is convicted of one of the following violations while driving a CMV or a private vehicle, a **three year disqualification period is imposed**. If the violation/conviction involves hauling hazardous materials, there is a **one year disqualification period imposed**.

DWI

Submit BAC .04 (In a CMV Only)

Submit BAC .08 or above (In a CMV or non-CMV)

Refusal (In a CMV or non-CMV)

Felony (In a CMV or non-CMV)

Leaving the scene (hit and run) (In a CMV or non-CMV)

If convicted of one of the following violations, a **one year disqualification period** is imposed.

Negligent homicide

Vehicular homicide

Manslaughter

Violation of revocation - driving a CMV while disqualified for previous violations in a CMV

If any of the above violations/convictions involve hauling hazardous material, a **three year disqualification period** is imposed.

A **LIFETIME** disqualification is imposed if an operator is convicted of two major disqualifying violations.

6 TIPS THAT WILL MAKE YOU LOOK GOOD TO YOUR CLIENT

Initial Interview with your client

- 1) Run their driving register. www.expresslane.org

The driving register will include information regarding prior DUI's , interlock requirements, etc.

If there are restrictions, other than the charge you are working on, let your client know so that these matters can be cleared and removed from their driving register. This may also prevent future violations.

- 2) Check the time frame to see if you can file for an administrative hearing. If so, explain to your client how this will help extend their driving privileges.
- 3) If your client has been incarcerated, have him/her provide the documents to you. Bring them to court!
- 4) When a DUI case is screened, the file is marked whether or not defendant is eligible for the D.A.'s Diversion Program. Prior to the arraignment date, if your client is eligible, discuss if the diversion program would be an option. On arraignment day, let the ADA know if your client is interested so the process can get started.
- 5) Call the DA's office so you can pick up discovery on arraignment day or, if needed, file your motions.
- 6) Lastly, if present on his/her court date have your client stand next to you in court. Let them see you are representing their interest and earning your fee.