The Clearinghouse contains information about drivers with commercial driver's licenses (CDL drivers) who are covered by FMCSA's drug and alcohol program. This also includes drivers with commercial learner's permits (CLPs). For more information on drivers affected by the Clearinghouse, see other side.

Yes, a DUI on your personal record is reported to the Drug & Alcohol Clearinghouse (.gov) if you have a CDL or CLP.

Explanation

* The clearinghouse is a central repository for drug and alcohol violations related to FMCSA drug testing.
* Employers are required to report information about drug and alcohol violations to the clearinghouse.
* This includes information about:
  + Positive drug tests
  + Alcohol tests greater than 0.04 blood alcohol content
  + Refusals to test
  + Other non-test violations of drug and alcohol regulations

Consequences of a drug or alcohol violation in a personal vehicle include:

* Disqualification from driving for a period of time
* A return-to-duty process
* A non-DOT substance abuse evaluation

**What are the consequences for a driver who refuses a drug or alcohol test?**

[FAQ](https://jjkellercompliancenetwork.com/best-results/faq/)[USA](https://jjkellercompliancenetwork.com/geography/usa/)

Refusing a drug or alcohol test is among the prohibitions listed in Subpart B of [Part 382](https://jjkellercompliancenetwork.com/regsense/part-382-controlled-substances-and-alcohol-use-and-testing) of the Federal Motor Carrier Safety Regulations. If a driver refuses a drug or alcohol test, the carrier must treat the driver the same as if they failed the test. This includes immediately removing the driver from safety-sensitive functions (such as driving) and advising the driver of resources available for evaluating and resolving alcohol and drug problems.

The refusal to test is reported to the CDL Drug and Alcohol [Clearinghouse](https://jjkellercompliancenetwork.com/regsense/cdl-drug-and-alcohol-clearinghouse-overview).

Before the driver may drive again, they must be evaluated by a substance abuse professional, complete the prescribed treatment/counseling, and pass a return-to-duty drug and/or alcohol test. In the year following the driver’s return to duty, they must be given at least six follow-up tests.

[**What happens when a driver tests positive?**](https://jjkellercompliancenetwork.com/regsense/what-happens-when-a-driver-tests-positive)

[USA](https://jjkellercompliancenetwork.com/geography/usa/)

When a driver has a confirmed positive, or engages in other prohibited drug or alcohol behavior, the driver must be removed from a safety-sensitive function per [382.501](https://jjkellercompliancenetwork.com/regsense/382501-removal-from-safety-sensitive-function). The employer must present the driver with a list of Substance Abuse Professionals (SAPs) per [40.287](https://jjkellercompliancenetwork.com/regsense/40-287-what-information-is-an-employer-required-to-provide-concerning-sap-services-to-an-employee-who-has-a-dot-drug-and-alcohol-regulation-violation). The list must be given without a fee, and the carrier cannot force an employee to seek the evaluation. The list, also, must be made available to the driver (or driver applicant) whether or not the carrier retains the driver in their employ. (Retention of the driver would be based on company policy.)

The violation is reported to the CDL Drug and Alcohol [Clearinghouse](https://jjkellercompliancenetwork.com/regsense/cdl-drug-and-alcohol-clearinghouse-overview) to appear on the driver’s record.

In order to resume a safety-sensitive function, the driver must complete the Return-to-Duty Process of [Subpart O](https://jjkellercompliancenetwork.com/regsense/subpart-o-substance-abuse-professionals-and-the-return-to-duty-process-2656897218) of Part 40. The driver cannot perform a safety-sensitive function again until all the necessary steps are completed:

1. The driver must seek a face-to-face\* evaluation from a SAP. (Payment of the evaluation is based on management-labor agreements and healthcare benefits and is not required of the employer under the FMCSRs.)
2. The SAP will refer the driver to an appropriate treatment and education program.
3. The driver must complete the required treatment and education and return to the SAP for another face-to-face\* evaluation.
4. If the SAP is satisfied that the driver is able to return to driving, the SAP will report the completed steps to the Drug and Alcohol Clearinghouse, and issue a report on their findings to the Designated Employer Representative.
5. This report will list any continuing treatment and education, if required, and the number of DOT follow-up drug and/or alcohol tests required in a given time frame. The driver will be required to have a minimum of six unannounced follow-up tests in the first 12 months following the employee’s return to a safety-sensitive function. The SAP may require follow-up testing for up to five years.
6. The driver now can go, and not prior to this point, for a return-to-duty drug and/or alcohol test. The employer must wait for the go ahead from the SAP before sending the driver in for the return-to-duty test. A negative result must be received and reported to the Clearinghouse by the employer before the driver can return to a safety-sensitive function.

*\*At the SAP’s discretion, the initial and follow-up evaluations may be performed face-to-face in-person or remotely. If a SAP is not prohibited from using technology within the parameters of the SAP’s state-issued license or other credential(s), a remote evaluation must be must be conducted in accordance with DOT criteria.*

After the driver returns to a safety-sensitive function, the employer must send the driver for the required number of unannounced follow-ups making sure that they do not have any discernible pattern.

**Clearinghouse recordkeeping**

The driver must have a Clearinghouse account in order to designate the SAP in the database. Once designated, the SAP indicates that the driver has completed the evaluations and rehabilitation and treatment.

The employer under whose program:

* The return-to-duty test is performed must report the negative result to the Clearinghouse. The driver’s status no longer shows as prohibited once received.
* The follow-up program is completed must report that the last follow-up test was performed.

The employer’s submissions do not require that the driver provide consent.

Driver information is removed when the above steps are reported to the Clearinghouse AND five years pass since the original violation.

**Employer recordkeeping**

All records relating to a DOT-drug and alcohol violation must be retained for five years per [382.401](https://jjkellercompliancenetwork.com/regsense/382401-retention-of-records-2656899488). If the driver leaves the motor carrier’s employment prior to the completion of the very last follow-up test, this information must be supplied to the prospective employer per 40.25, and the next employer(s) must pick up where the process left off.

[**Who should be in a DOT drug and alcohol testing program?**](https://jjkellercompliancenetwork.com/regsense/who-should-be-in-a-dot-drug-and-alcohol-testing-program)

[USA](https://jjkellercompliancenetwork.com/geography/usa/)

Essentially, [Part 382](https://jjkellercompliancenetwork.com/regsense/part-382-controlled-substances-and-alcohol-use-and-testing) applies to those required to hold CDLs (or the Mexican or Canadian equivalent), and their employers. This means that, unlike most other safety regulations, FMCSA testing applies to both intrastate and interstate CMV drivers. So if a truck is large enough to require a CDL, the driver is subject to drug and alcohol testing even if driven a few miles per week and never crosses state lines. This could include a mechanic, dispatcher, warehouse worker, or any other occasional or fill-in driver.

Exemptions exist for those who are exempt from the CDL regulations, including certain farmers, military personnel, firefighters, and those operating CMVs on private property with controlled access.

[**If a CDL driver has a DUI/DWI in a personal vehicle, is this a violation requiring the DOT return-to-duty process?**](https://jjkellercompliancenetwork.com/regsense/if-a-cdl-driver-has-a-dui-dwi-in-a-personal-vehicle-is-this-a-violation-requiring-the-dot-return-to-duty-process)

[USA](https://jjkellercompliancenetwork.com/geography/usa/)

Actions occurring in a personal vehicle do not affect the driver’s participation in your DOT testing program. A DUI/DWI in a personal vehicle is not a violation under [Part 382](https://jjkellercompliancenetwork.com/regsense/part-382-controlled-substances-and-alcohol-use-and-testing), although it will affect the driver’s CDL privileges. The actions in the personal vehicle is a state licensing issue.

[**Does an employer have to terminate the employment of a driver who commits a Part 382 drug or alcohol violation?**](https://jjkellercompliancenetwork.com/regsense/does-an-employer-have-to-terminate-the-employment-of-a-driver-who-commits-a-part-382-drug-or-alcohol-violation)

[USA](https://jjkellercompliancenetwork.com/geography/usa/)

The Federal Motor Carrier Safety Regulations (FMCSRs) do not address whether drivers who commit [Part 382](https://jjkellercompliancenetwork.com/regsense/part-382-controlled-substances-and-alcohol-use-and-testing) violations should be terminated. This decision should be based on state and federal employment laws and the employer’s drug and alcohol policy.

[**Can drivers who are subject to Part 382 use CBD oil?**](https://jjkellercompliancenetwork.com/regsense/can-drivers-who-are-subject-to-part-382-use-cbd-oil)

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The Federal Motor Safety Regulations (FMCSRs) don’t specifically prohibit CBD oil, however, there is no guarantee that cannabidiol (CBD) oil, even if derived from hemp, will result in a negative DOT drug test result. The concentration of tetrahydrocannabinol (THC) in the CBD oil and how much the individual is using the oil both factor into a potential drug testing violation. The presence of THC is strictly prohibited based on DOT testing rules ([40.82](https://jjkellercompliancenetwork.com/regsense/4085-what-drugs-do-laboratories-test-for-2656930533)), medical qualifications ([391.41](https://jjkellercompliancenetwork.com/regsense/39141-physical-qualifications-for-drivers)), and general operating rules ([392.4](https://jjkellercompliancenetwork.com/regsense/3924-drugs-and-other-substances)). An MRO will not accept CBD oil as a valid medical explanation for a positive test for THC. Additionally, enforcement may view CBD oil in a commercial motor vehicle as possession since the officer is unable to determine the concentration of THC.

[**Can drivers who are subject to Part 382 use CBD oil?**](https://jjkellercompliancenetwork.com/regsense/can-drivers-who-are-subject-to-part-382-use-cbd-oil)

[USA](https://jjkellercompliancenetwork.com/geography/usa/)

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[**What if the driver never leaves your property? Is the driver subject to DOT testing?**](https://jjkellercompliancenetwork.com/regsense/what-if-the-driver-never-leaves-your-property-is-the-driver-subject-to-dot-testing)

[USA](https://jjkellercompliancenetwork.com/geography/usa/)

A motor carrier will need to look at its operation to see if its parking lot or yard meets the definition of “highway” in [390.5](https://jjkellercompliancenetwork.com/regsense/390-5-definitions-suspended): “any road, street, or way, whether on public or private property, open to public travel.” “Open to public travel” in general terms means that the road is open to the general public for use without restrictive gates and prohibitive signs. Based on this, a mechanic, dispatcher, or supervisor who just moves a CMV out of a garage to a parking space could possibly be subject to DOT testing.

[**Should employers include all employees who hold a CDL in their DOT drug and alcohol testing program?**](https://jjkellercompliancenetwork.com/regsense/should-employers-include-all-employees-who-hold-a-cdl-in-their-dot-drug-and-alcohol-testing-program)

[USA](https://jjkellercompliancenetwork.com/geography/usa/)

No, only those individuals who drive a CDL CMV for the company should be included in the company’s DOT drug and alcohol testing program. Employees who happen to hold a CDL but are not using the CDL in their jobs are not in a safety-sensitive position and are not subject to [Part 382](https://jjkellercompliancenetwork.com/regsense/part-382-controlled-substances-and-alcohol-use-and-testing). If, however, the individual is a backup CDL driver who may be called upon occasionally or intermittently to drive a CDL CMV should be included in the company’s DOT drug and alcohol testing program.

[**May a driver use a prescribed drug?**](https://jjkellercompliancenetwork.com/regsense/may-a-driver-use-a-prescribed-drug)

[USA](https://jjkellercompliancenetwork.com/geography/usa/)

Yes, a driver may use a prescribed drug if certain conditions are met.

Drugs that are prohibited under the FMCSRs appear on [*Schedule I*](https://jjkellercompliancenetwork.com/regsense/details/r21CFR1308.11) of 21 CFR 1308, *Schedules of Controlled Substances*. It is a list of controlled substances, categorized as opiates, opiate derivatives, hallucinogenic substances, depressants, and stimulants. Prescription brand names will not appear on the list, but rather their chemical composition. Each drug or substance has been assigned a DEA Controlled Substances Code Number.

Drugs contained in the Schedule I list prevent a driver from being medically qualified per [391.41(b)(12)](https://jjkellercompliancenetwork.com/regsense/details/r49CFR391.41#b-12-i).

For non-Schedule I drugs, there is an exception if the following is true:

1. If the substance or drug is prescribed by a licensed medical practitioner who is familiar with the driver’s medical history and assigned duties; and
2. The licensed medical practitioner has advised the driver that the prescribed substance or drug will not adversely affect the driver’s ability to safely operate a commercial motor vehicle.

If the licensed medical practitioner prescribes the medication without insight into the assigned duties, the driver is still medically unqualified, and the exception to the rule does not apply, even though he/she obtained the medication legally.

*Schedule I*is also used to disqualify a driver under [392.4](https://jjkellercompliancenetwork.com/regsense/3924-drugs-and-other-substances). The same exemption is noted in paragraph [(c)](https://jjkellercompliancenetwork.com/regsense/details/r49CFR392.4#c) which states that the drug must be obtained through a licensed medical practitioner who has advised the driver that it will not adversely affect his/her driving ability. A similar exemption is found in [382.213](https://jjkellercompliancenetwork.com/regsense/382213-controlled-substance-use) for regulations relating to DOT drug and alcohol testing programs.

An employer may require a driver to inform them of any therapeutic drug use.

[**Is there a list of drugs that will disqualify a driver?**](https://jjkellercompliancenetwork.com/regsense/is-there-a-list-of-drugs-that-will-disqualify-a-driver)

[USA](https://jjkellercompliancenetwork.com/geography/usa/)

No, the DOT has not issued a list of disqualifying drugs. Drivers are legally able to use almost any non-Schedule I drug as long as they have a valid prescription and the prescribing doctor is familiar with their driving duties and has told them that it won’t have an effect on safe driving ability. Methadone and medical marijuana are not allowed, however.

Use or possession of any of the substances listed on the Schedules of Controlled Substances while driving can result in disqualification if the driver is caught and convicted. This means that even if a driver’s doctor and employer have approved the use of a certain drug, that driver could still get a DUI for using a controlled substance.

[**Can employers test drivers covered by Part 382 drug and alcohol regulations conduct drug and alcohol tests at their discretion?**](https://jjkellercompliancenetwork.com/regsense/can-employers-test-drivers-covered-by-part-382-drug-and-alcohol-regulations-conduct-drug-and-alcohol-tests-at-their-discretion)

[USA](https://jjkellercompliancenetwork.com/geography/usa/)

No. The Federal Motor Carrier Safety Regulations (FMCSRs) are very specific about when a driver is subject to drug and/or alcohol testing while working for a motor carrier. These situations include:

* If the driver’s name is drawn for random drug or alcohol testing as part of a [Part 382](https://jjkellercompliancenetwork.com/regsense/part-382-controlled-substances-and-alcohol-use-and-testing) random testing program,
* After an accident that meets the [Part 382](https://jjkellercompliancenetwork.com/regsense/part-382-controlled-substances-and-alcohol-use-and-testing) criteria for post-accident testing,
* When a trained supervisor suspects a driver is under the influence of drugs or alcohol and sends the driver for a reasonable suspicion test, and
* Return-to-duty and follow-up testing that is prescribed by the substance abuse professional (SAP) who has evaluated a driver after a [Part 382](https://jjkellercompliancenetwork.com/regsense/part-382-controlled-substances-and-alcohol-use-and-testing) drug or alcohol violation.
* [**May a road test be given before a pre-employment drug test?**](https://jjkellercompliancenetwork.com/regsense/may-a-road-test-be-given-before-a-pre-employment-drug-test)
* [USA](https://jjkellercompliancenetwork.com/geography/usa/)
* Yes. According to the Federal Motor Carrier Safety Administration, an employer may administer a road test to driver-applicants subject to [Part 382](https://jjkellercompliancenetwork.com/regsense/part-382-controlled-substances-and-alcohol-use-and-testing) without first testing them for controlled substances. However, an employer may *not* use driver-applicants as a current company or lease driver without first obtaining a verified negative test result. A motor carrier must obtain a verified negative controlled substance test result prior to dispatching drivers on their first trip.
* [**Is a drug test required with a DOT medical exam?**](https://jjkellercompliancenetwork.com/regsense/is-a-drug-test-required-with-a-dot-medical-exam)
* [USA](https://jjkellercompliancenetwork.com/geography/usa/)
* No, a drug test used to be required as part of the medical exam, but that requirement has been removed. A doctor could require a drug test during the physical, but it’s not required, and a failure of that test wouldn’t be the same as failing a DOT-required drug test. It might result in medical disqualification, however.
* [**When do I send out requests for previous employer alcohol and drug testing information?**](https://jjkellercompliancenetwork.com/regsense/when-do-i-send-out-requests-for-previous-employer-alcohol-and-drug-testing-information)
* [USA](https://jjkellercompliancenetwork.com/geography/usa/)
* As of January 6, 2023, motor carriers must use the CDL Drug and Alcohol [Clearinghouse](https://jjkellercompliancenetwork.com/regsense/cdl-drug-and-alcohol-clearinghouse-overview) in accordance with 382.701(a) as the sole means of complying with the requirements of 40.25(b) with respect to FMCSA-regulated employers. The safety performance history records request (391.23) no longer contains the DOT drug and alcohol history as of January 6, 2023. The Clearinghouse query is due at time of hire before performing a safety-sensitive function for the first time.
* However, when an employee who is subject to follow-up testing has not successfully completed all follow-up tests, employers must request the employee’s follow-up testing plan directly from the previous employer in accordance with 40.25(b)(5).
* If an applicant was subject to an alcohol and controlled substance testing program under the requirements of a DOT Agency other than FMCSA within the previous three years, the employer must request the alcohol and controlled substances information required under 382.701 and 40.25 directly from those employers regulated by a DOT Agency other than FMCSA.
* If feasible, you must obtain and review this information before the employee first performs safety-sensitive functions. If this is not feasible, you must obtain and review the information as soon as possible. However, you must not permit the employee to perform safety-sensitive functions after 30 days from the date on which the employee first performed safety-sensitive functions, unless you have obtained or made and documented a good faith effort to obtain this information.
* [**Can drivers drive before the company receives DOT drug test results?**](https://jjkellercompliancenetwork.com/regsense/can-drivers-drive-before-the-company-receives-dot-drug-test-results)
* [USA](https://jjkellercompliancenetwork.com/geography/usa/)
* If a carrier is pre-employment testing a newly hired driver, the company must receive negative test results before allowing the driver to drive. Not waiting for negative test results has led to fines for many companies.
* A driver who has taken a random or post-accident drug test may continue to drive while test results are being processed. A carrier would only have to remove the driver from safety-sensitive functions if and when a confirmed positive result was received.

## [Under what circumstances do CDL drivers have to be tested for drugs and alcohol following an accident?](https://jjkellercompliancenetwork.com/regsense/under-what-circumstances-do-cdl-drivers-have-to-be-tested-for-drugs-and-alcohol-following-an-accident)

[USA](https://jjkellercompliancenetwork.com/geography/usa/)

There are three situations in which a commercial driver must be tested for drugs and alcohol following an accident:

* Any time the accident results in a fatality,
* If the commercial driver receives a citation AND someone in the accident is injured and receives immediate medical attention away from the scene, or
* If the commercial driver receives a citation AND one or more vehicles incur disabling damage requiring the vehicle to be towed from the scene.

If the accident only involves getting on or off the vehicle, or the loading or unloading of cargo, the driver would not be required to have a post-accident drug or alcohol test.

[**Does a mechanic fall under Part 382?**](https://jjkellercompliancenetwork.com/regsense/does-a-mechanic-fall-under-part-382)

[USA](https://jjkellercompliancenetwork.com/geography/usa/)

Yes, in many cases a mechanic does. Even if your technicians just test drive commercial motor vehicles (CMVs) (as defined in [382.107](https://jjkellercompliancenetwork.com/regsense/382-107-definitions-2657009825)), they are required to have a CDL and be placed in your DOT drug and alcohol testing program, including a pre-employment drug screen when first employed in this position. The mechanic would need all the components of [Part 382](https://jjkellercompliancenetwork.com/regsense/part-382-controlled-substances-and-alcohol-use-and-testing) – DOT drug and alcohol testing, policy/educational materials, previous employer drug and alcohol testing information, and CDL Drug and Alcohol [Clearinghouse](https://jjkellercompliancenetwork.com/regsense/cdl-drug-and-alcohol-clearinghouse-overview) queries.

Some may argue that their mechanics only move the CMVs in and out of stalls on their private lot. Do they need a CDL for that? Do they fall under [Part 382](https://jjkellercompliancenetwork.com/regsense/part-382-controlled-substances-and-alcohol-use-and-testing)? In some cases, they do. Private property can still meet the definition of “highway” which places the driver under the regulations. A motor carrier will need to look at its operation to see if its parking lot or yard meets the requirements. The applicable definition is found in [Sec. 390.5](https://jjkellercompliancenetwork.com/regsense/390-5-definitions-suspended), which reads: “Highway means any road, street, or way, whether on public or private property, open to public travel. ‘Open to public travel’ means that the road section is available, except during scheduled periods, extreme weather or emergency conditions, passable by four-wheel standard passenger cars, and open to the general public for use without restrictive gates, prohibitive signs, or regulation other than restrictions based on size, weight, or class of registration. Toll plazas of public toll roads are not considered restrictive gates.”

## Can drivers who are subject to Part 382 use CBD oil?

The Federal Motor Safety Regulations (FMCSRs) don’t specifically prohibit CBD oil, however, there is no guarantee that cannabidiol (CBD) oil, even if derived from hemp, will result in a negative DOT drug test result. The concentration of tetrahydrocannabinol (THC) in the CBD oil and how much the individual is using the oil both factor into a potential drug testing violation. The presence of THC is strictly prohibited based on DOT testing rules ([40.82](https://jjkellercompliancenetwork.com/regsense/4085-what-drugs-do-laboratories-test-for-2656930533)), medical qualifications ([391.41](https://jjkellercompliancenetwork.com/regsense/39141-physical-qualifications-for-drivers)), and general operating rules ([392.4](https://jjkellercompliancenetwork.com/regsense/3924-drugs-and-other-substances)). An MRO will not accept CBD oil as a valid medical explanation for a positive test for THC. Additionally, enforcement may view CBD oil in a commercial motor vehicle as possession since the officer is unable to determine the concentration of THC.

[**Can we use hair for a DOT drug test?**](https://jjkellercompliancenetwork.com/regsense/can-we-use-hair-for-a-dot-drug-test)

[USA](https://jjkellercompliancenetwork.com/geography/usa/)

No. The only permissible testing methods for DOT drug testing are oral-fluid (saliva) and urine specimens collected in accordance with DOT procedures.

[**What are the top FMCSA Part 382 violations each year?**](https://jjkellercompliancenetwork.com/regsense/what-are-the-top-fmcsa-part-382-violations-each-year)

[USA](https://jjkellercompliancenetwork.com/geography/usa/)

Each year, a number of DOT testing violations appear in the top acute and critical violations.

Top acute violations related to FMCSA testing include:

* Failing to implement an alcohol and/or drug testing program;
* Failing to implement random drug or alcohol testing program;
* Failing to randomly test for drugs and/or alcohol; and
* Using a driver who has tested positive for a drug.

The most common critical violation is using a driver before receiving a pre-employment result.