

CDL COMPLIANCE NOW

Practical Steps to Reduce Employer Liability Before & After Hire

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Webinar Objectives

1. Understand the evolving CDL regulatory framework
2. Assess the risk exposure to shippers, brokers, motor carriers, and public transit agencies
3. Explain the intersection of CDL regulation, employment law, and immigration law at the federal and state levels
4. Provide practical guidance transportation providers can take pre-hire and post-hire to mitigate risk and disruption to their operations

Definitions

- CBA: Collective Bargaining Agreement
- CDL: Commercial Driver's License
- CDLIS: CDL Information System
- CLP: Commercial Learner's Permit
- CMV: Commercial Motor Vehicle
- DOT: U.S. Department of Transportation
- FEHA: California's Fair Employment & Housing Act
- FMCSA: Federal Motor Carrier Safety Administration
- I-9: Federal Employment Eligibility Verification Form
- I-94: Arrival-Departure Record for U.S. Visitors
- IFR: Interim Final Rule
- MVR: Motor Vehicle Record
- Non-Domiciled CDL: CDL issued to person with legal authority to be in the U.S. for limited time (e.g., not citizens nor lawful permanent residents).
- SDLA: State Driver's Licensing Agency
- USCIS: United States Citizenship & Immigration Services

State of Commercial Driver Licensing

- Regulatory Framework for Issuing CDL Licenses
- Overview of U.S. Department of Transportation CDL Initiatives
- Legal Challenges
- DOT Scrutiny of State Licensing Practices

Federal-State CDL Architecture:

Federal Standards; State Authority

- States issue CDLs/CLPs, but must meet federally prescribed minimum standards and are subject to FMCSA oversight
- 49 Code of Federal Regulations Part 383 establishes:
 - Driver and hiring entity requirements
 - Testing and licensing requirements for CMVs
 - Standards for issuing a CDL
- Federal Oversight: program reviews/audits, corrective action plans, sanctions, and decertification

Key Compliance Pillars for SDLAs

- Identity, Lawful Status, and Domicile Controls: Assessing Eligibility
- Training and Testing: Knowledge, Skills, Competency Compliance
- Record Keeping Requirements: CDL Standard Compliance and Audit
- Enforcement Alignment: FMCSA-SDLA Coordination

DOT/FMCSA CDL Initiatives: Safety, Security, and America First

- English Language Proficiency Enforcement Initiative
- Non-Domiciled Interim Final Rule (IFR)
- SDLA Audits and State Accountability
- CDL Training Scrutiny (i.e., CDL Mills)

Legal Challenges

- *Lujan v. FMCSA*, No. 25-1215 (D.C. Cir. 2025): Granting an emergency stay of the IFR's enforcement pending outcome of litigation
- *California v. U.S. DOT*, No. 3:25-cv-10656 (N.D. Cal. Dec. 12, 2025)
- *Asian Law Caucus, Sikh Coalition, et al. v. Cal. Dep't of Motor Vehicles*, No. pending (Cl. Super. Ct. Alameda Cty. Dec. 22, 2025) (class action complaint)
- *Chinese Am. Truckers Ass'n v. FMCSA*, No. 5:26-cv-00063 (C.D. Cal. Jan. 7, 2026)

Beyond California: Nationwide Audit and State Scrutiny

- DOT/FMCSA Multi-State CDL Audit Assessing Non-Domiciled CDL Issuing Practices
- Federal Funding and Decertification Threats
- Review of CDL training school registration

Threat Assessment: How CDL Oversight Creates Transportation Provider Risk

- Compliance risk shifted to shippers, brokers, and public transit agencies in addition to motor carriers
- Risk exposure no longer only regulatory: employment law liability, accident liability, and operational disruption
- Necessity of balancing DOT, employment, and civil rights constraints

Transportation Providers' Dilemma: Balancing DOT Compliance and Employee/Contractor Management

- Verifying CDL validity and driver eligibility without triggering employment/civil rights liability
- Complying with both federal and state-specific statutes to engage in lawful driver inquiries
- Application to both employees and contractors, pre- and post-hire

CDL Oversight and Worker Classification Risk

- Expanded CDL verification may increase control over drivers, which could undermine independent contractor classifications
- California's classification standards heighten risk (i.e., Assembly Bill 5/Borello)
- Compliance protocols must be framed as regulatory necessity, not performance management

Permissible CDL-Related Inquiries

- Whether the individual holds a CDL (Class A/B/C)
- State of issuance, license number, and expiration date
- Whether the CDL is non-domiciled or subject to SDLA review
- Whether the CDL has been suspended, revoked, or cancelled
- Official SDLA notices directly addressing CDL validity
- Lawful authorization to work in the United States (standard federal inquiry only)

Permissible Safety and Qualification Verification

- Motor Vehicle Records from states of licensure
- CDL training school or program information
- FMCSA-permitted safety performance history
- Certifications of legal eligibility to operate a commercial motor vehicle

Prohibited Inquiries: Common Mistakes

- Transportation providers **may not ask**:
 - Country of citizenship or nationality
 - Immigration status, visa type, or classification
 - Whether the individual is a lawful permanent resident or visa holder
 - Immigration history or USCIS review status
 - Questions that **expressly or implicitly** reveal immigration status

California Considerations

- California law (FEHA, Labor Code, Assembly Bill 450) imposes stricter limits than federal law
- Inquiries possibly tolerated elsewhere can trigger liability in California
- Providers must align FMCSA compliance with California's immigration-neutral mandate
- Transportation providers should not ask questions like those prohibited under federal law
- Protocols compliant elsewhere may violate California law
- Multi-state providers should avoid one-size-fits all policies

California: Documents and I-9 Handling

- Providers may not request:
 - Foreign passports
 - I-94 records
 - Visa or consular documents
 - EADs outside the I-9 process
- Providers may not:
 - Specify which I-9 documents must be presented
 - Re-verify I-9s unless federally required
 - Reinvestigate immigration status based on CDL revocation alone
- CDL validity must be confirmed only through SDLA and CDL systems

Non-domiciled CDLs: Managing Existing California Drivers

Providers may:

- Obtain SDLA verification of CDL status
- Request official revocation or review notices
- Temporarily reassign or remove drivers from safety-sensitive duties

Providers may not:

- Demand immigration documents
- Take adverse action based on assumptions about immigration status
- Re-verify I-9s absent a federal trigger

Retaliation/Discrimination Risks When Taking CDL-Related Action

- CDL-based decisions often occur near protected activity
 - Timing can support retaliation claims
 - Leave and Accommodation Overlap: CDL reviews or suspensions may coincide with protected leave or accommodation requests, requiring compliance with federal and state leave and disability laws.
- As non-domiciled CDL issues affect individuals of certain national origins and ancestry, related employment actions may give rise to discrimination claims
- Documentation for disciplinary or termination reasons is very important
- Reminder: Adverse actions include more than termination (e.g., reduced hours or pay; and/or less favorable routes or assignments)

California Recordkeeping and Risk-Mitigation

- Store SDLA notices, MVRs, and CDLIS records separately where feasible.
- Limit internal dissemination of personal identifying information.
- Train HR and safety staff on FEHA, Assembly Bill 450, and retaliation protections.
- Apply verification procedures uniformly across all drivers.

Practical Guidance for Today

- Update interview and supervisory scripts and applications to ensure immigration-neutral wording
- Implement a CDL verification protocol relying on:
 - SDLA notices
 - MVR updates, and
 - CDLIS responses
- Train HR, recruiting, and onboarding personnel on prohibited inquiries
 - Policy review and development
- Document decisions based solely on:
 - CDL validity
 - SDLA action, and
 - Lawful work authorization

Practical Guidance for Tomorrow

- Revise transportation contracts to comply with preexisting and new DOT licensing and training rules
- Acknowledge reality of states halting licensing activities, prepare to be nimble as state DMVs activities stop/change/resume/pause/change again...
- Consider options for utilizing personnel who have lost/will soon lose CDLs
 - Acknowledge reality of limited light-duty sorts of roles
 - Plan for extended inability for impacted personnel to drive
 - Confer with relevant union(s) regarding options

Other Employment Law Issues to Consider

- **Wage and Hour Implications** – Temporary reassignment of drivers due to CDL issues may affect exempt status, pay practices, and overtime eligibility.
- **Collective Bargaining and Just-Cause Requirements** – Unionized employers must align CDL-related action with CBA provisions governing discipline, reassignment, and safety removals.
- **English Proficiency Enforcement** – Employers must balance compliance with federal safety standards regarding English proficiency while avoiding discriminatory employment practices under state and federal law.
 - English-only workplace policies are presumptively unlawful
 - Restrictions on language use should be narrowly tailored to circumstances where English proficiency is legally required (e.g., communicating with law enforcement)

January 7 Letter Withholding \$158M+ in DOT Funds to California

- “Notice of Final Determination of Substantial Noncompliance” with “standards for issuing non-domiciled CLPs and CDLs” and “for reporting ‘temporary’ or ‘interim’ non-domiciled CLP and CDL issuance to CDLIS”
- Withholding 4% of National Highway Performance Program and Surface Transportation Block Grant funds (~\$158M)
- Threatens decertification of CDL program, future withholding of 8% of National Highway Performance Program and Surface Transportation Block Grants starting in FY28 (~\$317M)

Key Takeaways and Closing Thoughts

- DOT is rapidly and significantly changing the transportation regulatory landscape through various current and forthcoming CDL-related initiatives.
- DOT initiatives are potentially exposing shippers, brokers, motor carriers, and public transit agencies, as well as any their respective contractors, to new liability that extends beyond driver licensing and training.
- Both consumers and providers of transportation services need to reevaluate their liability risk exposure, and potentially implement changes to contracting, hiring, and supervisory practices.
- 2026 will see continued DOT efforts to reshape the transportation industry that will continue to challenge operational consistency and capacity.

Resources

Legal Alert:

Navigating the New CDL Regulatory Landscape: What Motor Carriers, Brokers, and Public Transit Agencies Need to Know – [click to read](#)

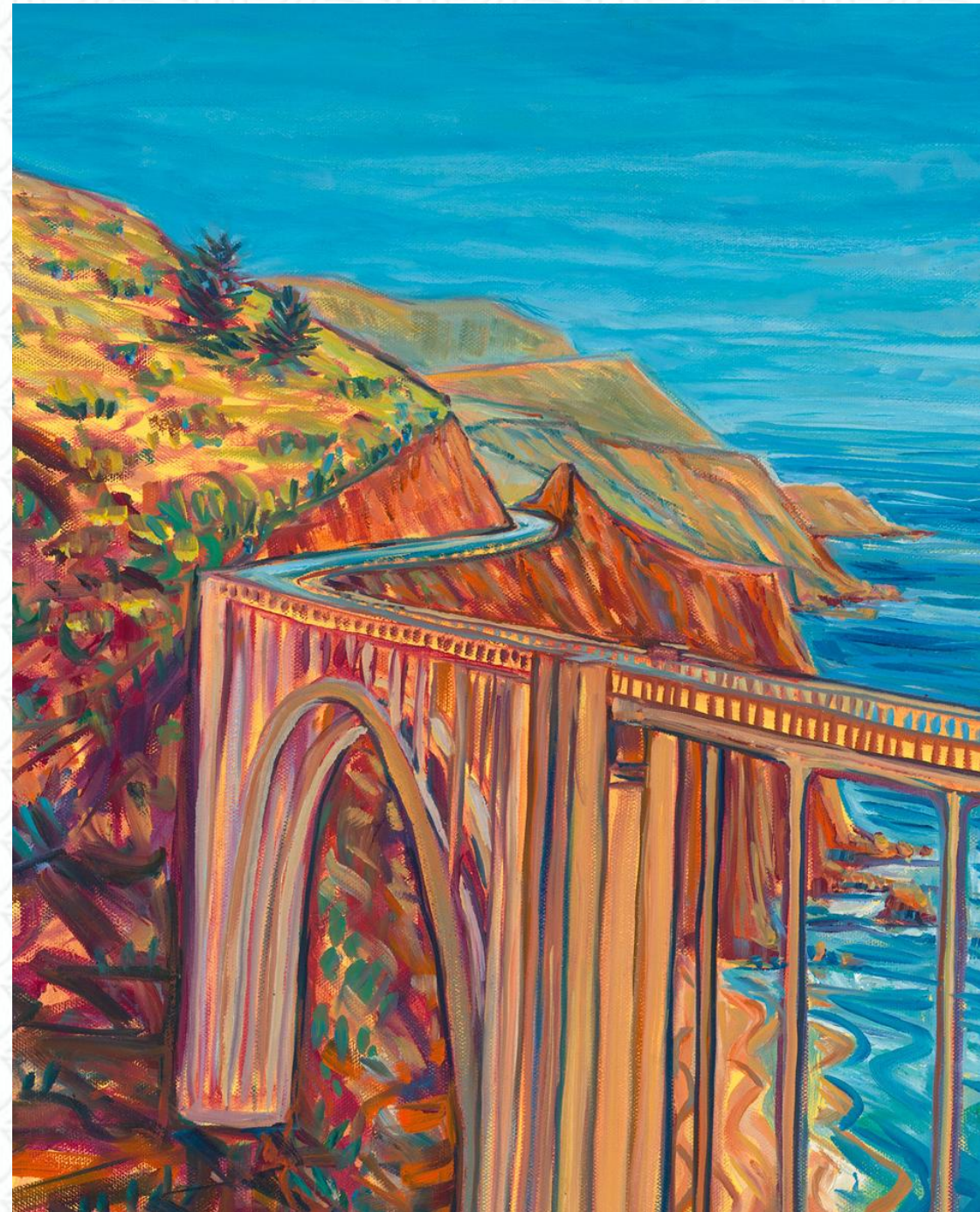
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Questions?

We welcome follow-up conversations about how these issues may affect your organization.

We're here as a resource as you navigate ongoing CDL regulatory changes.



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