

CHARGED WITH A CDL DWI IN TEXAS?

A COMMERCIAL DRIVER'S GUIDE TO

PROTECTING YOUR LICENSE, JOB, AND FUTURE



STEPHEN HAMILTON | JAMES PUBLISHING

Charged with a CDL DWI in Texas?

*A Commercial Driver's Guide to
Protecting Your License, Job, and Future*

Charged with a CDL DWI in Texas?

*A Commercial Driver's Guide to
Protecting Your License, Job, and Future*

By Stephen Hamilton

Authors:

Stephen Hamilton
Texas Criminal Defense Group
texascriminaldefensegroup.com
806-444-4444

Publisher:

James Publishing, Inc.
3303 Harbor Blvd., Suite F-8
Costa Mesa, CA 92626
866-725-2637
www.jamesamplifier.com

Copyright © 2026
Stephen Hamilton
James Publishing, Inc.

This publication is intended to provide accurate and authoritative information about the subject matter covered. It is distributed and sold with the understanding that the publisher does not render legal or other professional services. If legal advice or other expert assistance is required, seek the services of a competent professional.

Persons using this publication in dealing with specific legal matters should exercise their own independent judgment and research original sources of authority and local court rules.

The publisher and the author make no representations concerning the contents of this publication and disclaim any warranties of merchantability or fitness for a particular purpose.

About Me and CDL DWI Cases

Over the years I have tried on average more cases in a year than most criminal lawyers try in ten years, and I have handled over 100 jury trials.

I believe I am in court so often for two reasons. First, I like my clients. If I can help them in their time of need I want to do whatever I can. Second, I like trials. I enjoy the stress that comes with being in trial. I believe that when I walk in that courtroom, as arrogant as this might sound, I am in charge.

CDL DWI cases are among the most consequential matters I handle. They are not simply DWI cases with a commercial driver involved — they are a fundamentally different legal problem. Eight attributes make them uniquely challenging.

1. Triple-Track System

- Most DWI defendants face two proceedings: the criminal case and the ALR hearing. CDL drivers face three: the criminal case, the ALR hearing, and a separate federal CDL disqualification process that runs on its own rules regardless of how the other two resolve.
- Each proceeding has different standards, different decision-makers, and different consequences. Winning the criminal case does not automatically protect the CDL. Losing the ALR hearing does not automatically mean

losing the CDL. The three must be managed simultaneously and strategically.

- The 15-day deadline for requesting an ALR hearing begins running the day of the arrest — before most drivers have even spoken to an attorney.

2. Federal Regulatory Overlay

- CDL disqualification is governed by federal FMCSA regulations, not by the Texas courts. A state judge cannot waive it, reduce it, or defer it. The disqualification periods — one year for a first offense, lifetime for a second — are mandatory and apply uniformly across all fifty states.
- The federal system reaches further than most drivers expect. A DWI in a personal vehicle, on a day off, in a different state, triggers the same federal CDL consequences as a DWI in a commercial truck.
- The FMCSA Drug and Alcohol Clearinghouse creates a permanent federal record of violations that every prospective employer is required to query. A violation does not stay local.

3. A Lower and More Easily Crossed Threshold

- The legal BAC limit for a CDL holder operating a commercial motor vehicle is 0.04 — half the standard 0.08 limit. This is a threshold that drivers can reach without feeling impaired, without intending to break the law, and without any behavior that would draw attention on its own.
- Two standard drinks may be sufficient to cross 0.04 for some drivers, depending on body weight, metabolism, and timing. The margin between a legal evening and a

CDL-ending arrest is narrow enough that drivers often do not realize they were over the limit until after the test.

- Defending a case near the threshold requires precise toxicological analysis, often including a rising BAC examination to determine what the BAC actually was at the time of driving, not merely at the time of testing.

4. Strong and Layered Prosecution Evidence

- BAC test results create a legal presumption of intoxication, and juries tend to trust numbers produced by machines. The prosecution's case often looks straightforward on paper.
- Officers document CDL DWI stops with particular thoroughness, knowing commercial driver cases receive extra scrutiny. Field sobriety test observations, dash-cam and bodycam footage, and detailed police reports create a layered evidentiary record that requires a layered defense.
- Employers, DOT compliance officers, and insurance investigators may also be building their own parallel records from the same event, creating additional documentation that can surface later in the case.

5. Scientific and Regulatory Complexity

- Challenging a breath or blood test result requires understanding calibration protocols, maintenance records, chain of custody procedures, and the science of alcohol absorption — including how rising BAC affects the relationship between the test result and the BAC at the time of driving.

- Medical conditions — diabetes, GERD, neurological conditions affecting balance and eye movement, medications with impairing side effects — can affect both test results and field sobriety performance. Expert testimony is often required to explain these factors effectively to a jury.
- Federal regulatory knowledge is an additional layer. Understanding which convictions trigger CDL disqualification, which charge reductions protect the license, and how the Clearinghouse records and reports violations requires specialized familiarity with the federal framework that general DWI attorneys often do not have.

6. Compressed Timelines and Parallel Investigations

- The 15-day ALR deadline is the most urgent, but it is not the only compressed timeline. Employer reporting obligations often run within days of an arrest. Evidence — particularly surveillance footage from businesses near the scene of the stop — may be overwritten within 72 hours.
- The driver faces potential scrutiny from multiple directions simultaneously: criminal prosecution, ALR proceedings, employer review, FMCSA compliance oversight, and insurance investigation. Each proceeding may be examining the same event for different purposes, and statements made in one context can affect all the others.
- Managing these parallel tracks requires coordination and speed. Most of what can be done in the first week after an arrest cannot be done in the second.

7. Extraordinary Employment Stakes

- For most defendants, a DWI conviction means consequences to their personal life – fines, probation, a record. For a CDL driver, it can mean the end of a career. A one-year disqualification for a first offense removes a driver from the only work they have done, often for decades, at a point in their professional life when rebuilding is genuinely difficult.
- Trucking companies operate under strict insurance and compliance requirements that limit their flexibility to retain drivers facing alcohol-related charges. Some carriers terminate drivers at the time of arrest, before any criminal finding, because their insurer or their safety rating leaves no other option.
- The consequences do not end with the employment relationship. The Clearinghouse entry follows the driver to every future employer. A second offense results in lifetime disqualification. The stakes compound in ways that are not comparable to what an ordinary DWI defendant faces.

8. Limited Room for Error

- In a standard DWI case, an attorney who misses a strategic opportunity may still be able to recover as the case develops. In a CDL DWI case, missed deadlines and uninformed decisions in the first days after an arrest can lock in consequences before the defense has even had a chance to examine the evidence.
- A driver who accepts a plea without understanding its CDL implications may resolve the criminal case

favorably while walking directly into a disqualification they could have avoided. A driver who waits until their court date to seek legal guidance has already lost the ALR hearing opportunity, the early evidence, and the strategic advantage that early preparation provides.

- CDL DWI defense requires getting it right the first time.

Despite these challenges, CDL DWI cases are regularly and successfully defended. Investigations contain errors. Officers fail to establish reasonable suspicion. Field sobriety tests are conducted improperly. Chemical testing procedures are not always followed correctly. Video contradicts written reports. Rising BAC analysis shows that the driver was below the threshold at the time of driving. Charge reductions that protect the CDL are negotiated when the evidence is handled strategically.

The result that matters in a CDL DWI case is not simply the criminal outcome. It is the outcome that allows the driver to keep working. Every decision in the case — from the ALR request on day one to the final resolution in court — must be evaluated against that objective.

That is the standard I hold myself to in every CDL DWI case I handle.

I hope you find the information and advice in this guide helpful.

Stephen Hamilton

About Texas Criminal Defense Group

We understand the gravity of the situations our clients face and we go the extra mile to ensure your rights are protected. We leave no stone unturned in building a robust defense strategy. From investigating the case to gathering evidence, interviewing witnesses, and analyzing every aspect of the prosecution's case, we leave no room for oversight. We understand the nuances of the law and leverage our expertise to identify potential weaknesses or inconsistencies in the prosecution's argument.

We go beyond the courtroom and offer guidance, reassurance, and emotional support throughout the legal process. We understand the stress and anxiety our clients experience and work tirelessly to alleviate their concerns. Whether it's explaining legal procedures, addressing questions, or preparing clients for trial, we ensure that our clients are well-informed and empowered every step of the way. By going the extra mile, we demonstrate our commitment to achieving the best possible outcome for our clients and upholding justice.

Results, Period

We believe that winning is not just important, but the ultimate goal. When it comes to your case, achieving victory is the sole focus, and if you choose to hire our services, it becomes our utmost responsibility to deliver the desired results to you.

People over Process Always

Our commitment is to provide Five-Star Service, and the abundance of success stories is a testament to our dedication. Our team of attorneys is passionate about advocating for our clients and ensuring their rights are protected. We go above and beyond to deliver exceptional representation, tailored to each individual case. From the initial consultation to the final resolution, we prioritize clear communication, responsiveness, and personalized attention. Our attorneys possess extensive legal knowledge, courtroom expertise, and a track record of achieving favorable outcomes for our clients. With a client-centered approach, we strive to exceed expectations and provide the highest level of service throughout the entire legal process.

Texas Criminal Defense Group
texascriminaldefensegroup.com
806-444-4444

Offices in: Amarillo, Austin, Dallas, Denton, Fort Worth, Houston, Lubbock, McKinney, Midland, Odessa, San Angelo, and San Antonio.

Google Reviews

4.9 rating, 500+ reviews

Jeremy Belvin ★★★★★

My attorney was phenomenal and wrapped up the entire felony case and had it reduced to a misdemeanor in in 3 months time start to finish. The office personnel were just as amazing and messaged me about any updates. I wasn't a bargaining chip like most attorneys use clients for. Everything was laid out plain and simple, and I had to do my part.

Kevin Mosansky ★★★★★

I am grateful to the Texas Criminal Defense Group for getting my case dismissed.

Carlos Per ★★★★★

The attorney assigned to my case was not only knowledgeable but also genuinely cared about my situation. He took the time to explain the implications of my charges, the potential outcomes, and the strategy they would employ to advocate for me.

When the day of my court appearance arrived, I felt prepared and supported. The outcome was far better than I had anticipated, and I left the courtroom relieved. I learned a valuable lesson about responsibility and the importance of making better choices.

Brandon Wright ★★★★★

They kept me informed the whole time. Anytime I had questions they were quick to give me answers. Very knowledgeable and professional. Definitely recommend to everyone.

Freddie Young ★★★★★

Very professional lawyers, they weren't afraid to step in the middle of the prosecutors' circle and talk them down to a lesser charge. I'm very satisfied with the outcome of my case. Hopefully I won't have to, but if I do I will call them for their service again.

Kendall Anderson ★★★★★

Texas Criminal Defense Group came through for me in one of the scariest times of my life. Having representation that is familiar with the process was very important to me. I had that with them, and would recommend and use them again.

CONTENTS

Introduction

PART ONE: THE RULES THAT APPLY TO YOU

Chapter 1 What Makes CDL Drivers Different Under the Law

- 1.1 Why the Law Treats Commercial Drivers Differently
 - 1.2 The Lower BAC Limit for CDL Drivers (0.04)
 - 1.3 How Little Alcohol It Takes to Reach 0.04
 - 1.4 The 0.04 vs. 0.08 Confusion
 - 1.5 Why Police Pay Special Attention to Commercial Drivers
 - 1.6 Federal Regulations Governing Commercial Drivers
 - 1.7 How Federal Rules Influence Texas CDL Law
 - 1.8 Why CDL Violations Follow Drivers Across State Lines
 - 1.9 What Counts as a Commercial Motor Vehicle
 - 1.10 On-Duty vs. Off-Duty: A Common Misunderstanding
- Closing Thoughts | Frequently Asked Questions

Chapter 2 The Two Types of CDL DWI Situations

- 2.1 Why CDL Drivers Face Two Different Scenarios
 - 2.2 Why a DWI in a Commercial Vehicle Is Treated More Seriously
 - 2.3 CDL Disqualification: What It Actually Means
 - 2.4 Employer Reporting Requirements
 - 2.5 The DOT Safety Investigation
 - 2.6 Additional Workplace Consequences
 - 2.7 The Common Misconception About Personal-Vehicle DWIs
 - 2.8 How a Personal-Vehicle DWI Can Still Affect a CDL
 - 2.9 Reporting Through Federal Databases
 - 2.10 Why Trucking Companies Cannot Ignore These Violations
- Closing Thoughts | Frequently Asked Questions

Chapter 3 BAC Limits, Drugs, and Impairment

- 3.1 Why Alcohol Limits Are Different for CDL Drivers
 - 3.2 The Lower BAC Limit: 0.04
 - 3.3 Why the Limit Is Lower
 - 3.4 How Drivers Unintentionally Exceed 0.04
 - 3.5 Alcohol Metabolism and Body Weight
 - 3.6 DWI Does Not Require Alcohol
 - 3.7 Illegal Drugs and DWI Charges
 - 3.8 Prescription Medications and Driving Impairment
 - 3.9 Over-the-Counter Medications That Can Cause Impairment
 - 3.10 How Police Test for Alcohol or Drug Impairment
 - 3.11 Breath Testing
 - 3.12 Blood Testing
 - 3.13 Drug Recognition Evaluations
 - 3.14 Texas Implied Consent Laws
 - 3.15 Administrative Penalties After a Test Refusal
 - 3.16 CDL Disqualification Consequences
 - 3.17 Why Refusing a Test Can Be Harder to Undo
- Closing Thoughts | Frequently Asked Questions

PART TWO: THE ARREST AND THE EVIDENCE

Chapter 4 The Traffic Stop and Arrest

- 4.1 How DWI Investigations Begin
- 4.2 Why Commercial Drivers Attract Attention
- 4.3 Heavy Regulation of Commercial Vehicles
- 4.4 Why Officers Assume CDL Drivers Know the Rules
- 4.5 Public Safety Concerns Involving Large Vehicles
- 4.6 What Field Sobriety Tests Are Designed to Measure
- 4.7 The Horizontal Gaze Nystagmus Test
- 4.8 The Walk-and-Turn Test
- 4.9 The One-Leg Stand Test
- 4.10 Why Field Sobriety Tests Are Often Misunderstood
- 4.11 Observations of Driving Behavior
- 4.12 Speech and Communication
- 4.13 Coordination and Physical Behavior
- 4.14 Eye Movement and Physical Indicators
- 4.15 How Officers Document DWI Investigations
- 4.16 What Police Reports Typically Include

- 4.17 Why Officer Reports Matter in Court
- Closing Thoughts | Frequently Asked Questions

Chapter 5 Breath and Blood Testing

- 5.1 What Happens After a DWI Arrest
- 5.2 How Breath Testing Machines Work
- 5.3 The Intoxilyzer and Other Breath Testing Devices
- 5.4 Calibration and Maintenance Issues
- 5.5 Mouth Alcohol and Contamination Problems
- 5.6 Operator Error in Breath Testing
- 5.7 When Police Seek Blood Test Warrants
- 5.8 Forced Blood Draws
- 5.9 Chain of Custody for Blood Evidence
- 5.10 How Blood Samples Are Tested in the Laboratory
- 5.11 Sample Contamination
- 5.12 Fermentation in Blood Samples
- 5.13 Improper Storage and Handling
- 5.14 Laboratory Testing Errors
- 5.15 Challenging the Reliability of BAC Results
- 5.16 The Timing of the Test
- 5.17 Challenging Laboratory Procedures
- 5.18 The Role of Forensic Toxicologists
- Closing Thoughts | Frequently Asked Questions

PART THREE: CONSEQUENCES

Chapter 6 The Two Legal Battles

- 6.1 Why a DWI Arrest Creates Two Separate Cases
- 6.2 The Criminal DWI Charge
- 6.3 Possible Outcomes in the Criminal Case
- 6.4 How Evidence Is Examined in Criminal Court
- 6.5 What the ALR Process Is
- 6.6 Why ALR Happens Quickly After an Arrest
- 6.7 The 15-Day Deadline to Request a Hearing
- 6.8 What Happens at an ALR Hearing
- 6.9 How CDL Disqualification Is Triggered
- 6.10 Who Decides CDL Disqualification?
- 6.11 The Common Misconception: “If I Win the Criminal Case, My CDL Is Safe”

6.12 Why CDL Drivers Must Defend Both Cases
Closing Thoughts | Frequently Asked Questions

Chapter 7 CDL Disqualification Rules

7.1 Why CDL Drivers Face Stricter Penalties
7.2 CDL Disqualification for a First Offense
7.3 Situations That Trigger First-Offense Disqualification
7.4 How First-Offense Disqualification Affects Employment
7.5 Longer Disqualification Periods for Second Offenses
7.6 Violations That Count as a Second Offense
7.7 When Lifetime CDL Disqualification Can Occur
7.8 Possibility of Reinstatement After a Lifetime Ban
7.9 Why Hazmat Drivers Face Stricter Rules
7.10 How Alcohol Violations Affect Hazmat Endorsements
CDL Drivers vs. Regular Drivers: Understanding the Difference
How CDL Disqualification Happens: The Chain of Events
Closing Thoughts | Frequently Asked Questions

Chapter 8 What Happens to Your Job

8.1 Why CDL Drivers Fear the Job Consequences More Than the Criminal Ones
8.2 Company Policies for Reporting Arrests
8.3 DOT Reporting Requirements
8.4 Internal Company Safety Rules
8.5 What the Clearinghouse Is
8.6 How Violations Are Recorded in the Clearinghouse
8.7 How Employers Use the Clearinghouse
8.8 Why Some Drivers Lose Their Job Before Their Case Is Resolved
8.9 Temporary Suspension vs. Termination
8.10 Insurance Requirements
8.11 Company Safety Policies
8.12 Liability Concerns
8.13 Federal Compliance
What Happens to Your Job: The Typical Sequence
Closing Thoughts | Frequently Asked Questions

Chapter 9 Can You Get an Occupational License with a CDL?

- 9.1 The Question Many CDL Drivers Ask
 - 9.2 What an Occupational Driver's License Is
 - 9.3 How to Apply for an Occupational License in Texas
 - 9.4 Why CDL Drivers Face Additional Restrictions
 - 9.5 When an Occupational License May Still Help
 - 9.6 The Federal Rule Courts Cannot Override
 - 9.7 The Practical Reality: Driving to Work vs. Driving at Work
 - 9.8 Can an Employer Work Around the Restriction?
- Occupational License vs. CDL Privileges: A Direct Comparison
- Closing Thoughts | Frequently Asked Questions

PART FOUR: FIGHTING THE CASE

Chapter 10 Common Weaknesses in DWI Cases

- 10.1 Why DWI Cases Are Not Always as Simple as They Appear
 - 10.2 The Legal Requirement for a Traffic Stop
 - 10.3 When a Stop May Be Considered Illegal
 - 10.4 Field Sobriety Tests and Their Limitations
 - 10.5 Common Field Sobriety Test Errors
 - 10.6 The Role of Dashcam and Bodycam Footage
 - 10.7 When Video Evidence Conflicts with Police Reports
 - 10.8 How Alcohol Is Absorbed in the Body
 - 10.9 The Concept of Rising BAC
 - 10.10 Key Takeaway: DWI Investigations Must Follow Proper Procedures
- Checklist: What Attorneys Examine in a CDL DWI Case
- Frequently Asked Questions

Chapter 11 Strategies to Protect Your CDL

- 11.1 Why Defense Strategy Matters for CDL Drivers
- 11.2 Examining the Legality of the Stop
- 11.3 When an Illegal Stop Can Affect the Case
- 11.4 Questioning Field Sobriety Test Reliability
- 11.5 Challenging Breath and Blood Test Evidence
- 11.6 Examining Police Reports and Testimony
- 11.7 Using Video Evidence to Evaluate Officer Observations
- 11.8 Why Negotiations Sometimes Occur in DWI Cases
- 11.9 When Reducing a Charge May Protect a CDL

- 11.10 Closing Thoughts: The Goal Is to Protect Your Career
- Checklist: How Defense Strategy Develops
- What to Do After a CDL DWI Arrest
- Frequently Asked Questions

Chapter 12 What CDL Drivers Should Do Immediately After an Arrest

- 12.1 The First Hours After a DWI Arrest
- 12.2 Understanding the Administrative License Revocation (ALR) Process
- 12.3 Why the 15-Day Deadline Is So Important
- 12.4 Why Evidence Can Disappear Quickly
- 12.5 Types of Evidence That May Matter in a CDL DWI Case
- 12.6 Mistakes CDL Drivers Should Avoid
- 12.7 How CDL Drivers Are Investigated After a DWI Arrest
- 12.8 Why CDL Drivers Need Legal Guidance Quickly
- Checklist: The First 15 Days After a CDL DWI Arrest
- Frequently Asked Questions

PART FIVE: REBUILDING AFTER A CDL DWI

Chapter 13 If You Lose Your CDL

- 13.1 Facing CDL Disqualification
- 13.2 How Long Disqualification Lasts
- 13.3 What to Do During the Waiting Period
- 13.4 The CDL Reinstatement Process
- 13.5 Finding Employment After Reinstatement
- 13.6 When Returning to Commercial Driving Is Not the Right Path
- 13.7 Career Alternatives That Use What You Already Know
- 13.8 Closing Thoughts
- Checklist: Toward Reinstatement or Career Transition
- Frequently Asked Questions

Chapter 14 Frequently Asked Questions

CDL Consequences

- Can I lose my CDL for a DWI in my personal vehicle?
- How long will a CDL disqualification last?
- Will my employer find out about my arrest?
- Can I continue working while my case is pending?

Alcohol Limits and Testing

Is a 0.04 BAC an automatic conviction?

Should I refuse a breath or blood test?

What is the difference between a breath test and a blood test?

Defending the Case

Can I save my CDL if I fight the case?

What are the most common weaknesses in a DWI investigation?

What is the 15-day ALR deadline and what happens if I miss it?

Moving Forward

What should I do immediately after a CDL DWI arrest?

What if my CDL is permanently disqualified?

INTRODUCTION

The call comes at an hour when nothing good happens. Late on a Tuesday, or early on a Saturday morning. The driver is in custody. The truck is on the shoulder. The uniform said the words that change everything: you are under arrest for DWI.

If you are reading this book, you have either received that call yourself, or you are the driver it happened to. Either way, you have picked up the right guide.

This is a book written specifically for CDL holders, about the specific legal framework that governs CDL holders, with the specific consequences that CDL holders face as the organizing concern throughout. The differences between a DWI charge for an ordinary driver and a DWI charge for a commercial driver are not matters of degree. They are structural. They start with a lower legal BAC limit, run through a separate federal regulatory system, and end with consequences that can eliminate a career rather than merely interrupt it.

You need a guide that understands that. This is it.

Who I Am and Why I Wrote This

My name is Stephen Hamilton. I am a criminal defense attorney based in Texas, and I have spent my career in courtrooms across this state handling cases that other attorneys often find difficult: cases where the evidence looks overwhelming, the system seems stacked against the client, and the stakes are high enough that getting it wrong is not acceptable.

DWI cases, and CDL DWI cases in particular, are ones I have handled hundreds of times. I have cross-examined the officers who conducted the stops. I have challenged the machines that produced the BAC readings. I have sat across from prosecutors and explained, with documentation in hand, exactly why the case they thought was solid had problems they had not examined closely enough. And I have sat across from CDL drivers who walked into my office believing they had no options, and helped them find the ones they did not know existed.

I wrote this book because the information CDL drivers need after a DWI arrest is not easy to find in one place. What is available is often either too general — written for any DWI defendant without accounting for the federal licensing framework — or too technical, buried in regulatory language that assumes a legal background no driver should need to have. The result is that commercial drivers often make consequential decisions without the information those decisions require.

This book is my attempt to fix that.

A NOTE ON HOW TO USE THIS BOOK

This book is designed to be read straight through before you do anything else — and also to be used as a reference as your case develops.

The early chapters establish the legal framework that governs CDL drivers. If you skip them, the later chapters on defense strategy and case outcomes will make less sense.

The later chapters address immediate action steps, defense approaches, and what happens after the case. Chapter 14 collects the questions I hear most often and answers them directly.

If you have just been arrested and are trying to understand what needs to happen in the next 24 to 48 hours, start with Chapter 12. Then come back and read from the beginning.

Whatever you do, do not put this book down without reading about the 15-day ALR deadline. Missing that deadline costs you an opportunity you cannot get back.

Why the CDL Case Is Different

Most people who are arrested for DWI know, in general terms, what they are facing: a criminal charge, a potential license suspension, fines, possibly some jail time or probation, and a record that will follow them for years. That picture, as unpleasant as it is, has a shape that most people can recognize and plan around.

For a CDL driver, the picture is different in ways that are not obvious until you understand the federal regulatory structure that sits on top of the state criminal system.

The first difference is the BAC threshold. For a non-commercial driver in Texas, the legal limit is 0.08. For a CDL holder operating a commercial motor vehicle, the federal limit is 0.04 — half as much. A driver who would be legal under the standard limit may already be over the commercial limit. Most

CDL drivers know this number in the abstract. What many do not understand is how easily it can be reached, and how the standard assumptions people make about drinking and driving — “I only had two beers”, “I ate dinner first”, “I felt fine” — do not map reliably onto the 0.04 threshold.

The second difference is the reach of the consequences. A DWI conviction for an ordinary driver affects that driver’s state license. A DWI conviction for a CDL holder — in any vehicle, including a personal truck or passenger car — triggers federal CDL disqualification. The state and federal systems are separate. A driver can win the criminal case and still face CDL consequences through the administrative system. A driver can have the criminal charge reduced to something that seems favorable on its face and still trigger disqualification if the reduction was made without understanding the federal implications. The two systems must be managed together, because they interact in ways that are not intuitive and that general DWI attorneys do not always understand.

The third difference is the speed at which things move. The 15-day ALR deadline — the window in which a driver must request an administrative hearing to challenge a license suspension — is not unique to CDL cases. But for a CDL driver, missing it has compounding effects. It removes the opportunity to challenge the suspension, but it also removes an early strategic asset in the defense of the criminal case. For drivers whose employment depends on their license being valid, an automatic suspension that begins before the criminal case has even had a first hearing can end a job before the legal fight has started.

The fourth difference is the scope of the investigation. An ordinary DWI arrest involves the police. A CDL DWI arrest can involve the police, the driver's employer, the Federal Motor Carrier Safety Administration, the FMCSA Drug and Alcohol Clearinghouse, and the carrier's insurance company — all reviewing the same incident for different purposes, under different standards, on different timelines. A driver who does not understand that multiple proceedings may be running simultaneously can protect themselves in one arena while inadvertently creating problems in another.

FOUR THINGS THAT MAKE CDL DWI CASES DIFFERENT

1. A lower BAC threshold (0.04 while operating a CMV, compared to 0.08 for other drivers) — and the same federal consequences for off-duty violations in personal vehicles.
2. Federal CDL disqualification that operates separately from — and sometimes regardless of — the outcome of the criminal case.
3. A compressed timeline, including a 15-day window to request an ALR hearing that starts running the day of the arrest.
4. Multiple simultaneous investigations by different entities — criminal, administrative, employer, and regulatory — each with its own standards and consequences.

What This Book Will Give You

Each part of this book addresses a distinct stage in the CDL DWI situation, and each is written to be useful regardless of where in that process you currently are.

HOW THIS BOOK IS ORGANIZED

Part One — The Rules That Apply to You — Chapters 1 through 3 establish the legal framework: why CDL drivers are treated differently, how the two types of CDL DWI situations work, and what the BAC limits, impairment standards, and implied consent rules actually mean in practice. If you have ever assumed that the CDL rules only apply when you are in a truck, these chapters will correct that assumption directly.

Part Two — The Arrest and the Evidence — Chapters 4 and 5 walk through the traffic stop, the field sobriety tests, and the chemical testing process in detail. Understanding how each of these works — and where each can go wrong — is the foundation for understanding why DWI cases are more defensible than most drivers initially believe.

Part Three — Consequences — Chapters 6 through 9 address what is actually at stake: the parallel criminal and ALR proceedings, the federal CDL disqualification rules, the employment consequences, and the occupational license question that almost every CDL driver asks. These chapters are deliberately specific about the federal regulations because vague reassurances are not useful when a career is on the line.

Part Four — Fighting the Case — Chapters 10 through 12 cover defense strategy: where DWI investigations break down, how experienced attorneys examine and challenge the evidence, what the negotiation process looks like, and what CDL drivers must do immediately after an arrest to protect their position. The 15-day deadline, evidence preservation, and the multiple investigations that may begin simultaneously are all addressed here.

Part Five — Rebuilding After a CDL DWI — Chapters 13 and 14 address what comes after the case: reinstatement, returning to commercial driving, career alternatives that use what experienced drivers already know, and the

consolidated FAQ that answers the questions I hear most often in my office.

Your Decision

I have tried throughout this book to give you accurate information rather than comfortable information. Those two things are not always the same.

The federal CDL disqualification rules are strict. A second major offense results in lifetime disqualification, and that means what it says. Some cases are stronger for the prosecution than others, and honest representation means telling a client that clearly rather than letting them build their expectations on wishful thinking. The 15-day ALR deadline is real, and missing it has real consequences that cannot be undone after the fact.

At the same time, I have watched too many CDL drivers give up on cases that were genuinely defensible because they assumed the arrest was the end of the analysis. It is not. DWI investigations involve multiple steps, and each step is subject to scrutiny. The traffic stop must be legally justified. The field sobriety tests must be properly administered. The chemical testing must follow established protocols. The documentation must accurately reflect what occurred. When those standards are not met, and in a significant number of cases, they are not, the evidence that results is not automatically reliable, and the prosecution's case is not as solid as it appears in the arrest report.

The range of outcomes in CDL DWI cases is genuinely wide. Some drivers avoid the convictions that trigger disqualification entirely. Others face disqualification but return to commercial driving after reinstatement. Others find that their years of

industry experience translate directly into rewarding careers they had not previously considered. What determines which of these paths a driver travels is not simply the facts of the arrest. It is also the quality of the information they have, the decisions they make in the first days after the arrest, and the strategic approach taken to everything that follows.

This book is designed to give you that quality of information.

Stephen Hamilton

Texas Criminal Defense Group

texascriminaldefensegroup.com

PART I

Understanding CDL DWI Laws in Texas

CHAPTER 1

WHAT MAKES CDL DRIVERS DIFFERENT UNDER THE LAW

If you hold a Commercial Driver's License, the DWI charge you are facing is not the same as the one facing the driver in the car next to you.

That is not meant to alarm you. It is simply the truth—and the sooner you understand it, the better prepared you will be to protect what you have worked to build.

For most CDL drivers, the license is not just a credential. It is the foundation of a career. It means the ability to put food on the table, make a mortgage payment, support a family. A truck driver, a bus operator, a hazmat hauler—these are skilled professionals who spent time and money earning the right to do what they do. The license represents all of that.

What many CDL drivers do not know—until the moment it becomes urgent—is that the law treats them differently from the start. The alcohol limits are stricter. The reporting systems are broader. The consequences of a conviction reach further. And the rules apply in situations that many drivers never expected.

This chapter explains why. Before we get into arrest procedures, defense strategies, or what to expect in court, you need to understand the legal framework that governs you as a commercial driver. The rules are different because the stakes are different. Once you understand that, the rest of this book will make more sense.

1.1 Why the Law Treats Commercial Drivers Differently

When someone obtains a CDL, they are not simply receiving permission to drive a bigger vehicle. They are receiving a professional license—one that comes with obligations similar in spirit to those carried by pilots, physicians, and other licensed professionals whose work directly affects public safety.

Commercial vehicles are not like passenger cars. A fully loaded tractor-trailer can weigh up to 80,000 pounds. A school bus carries children. A tanker hauling hazardous materials represents a threat that ordinary traffic simply does not. When something goes wrong with a vehicle that size, the consequences are almost never minor.

Regulators at both the federal and state level made a deliberate decision: drivers who operate vehicles capable of causing this level of harm must meet a higher standard than the general public. That decision shaped every rule that applies to CDL holders, including the rules around alcohol.

Understanding this reasoning matters because it explains why the law is the way it is—and why it is unlikely to give CDL drivers much sympathy when something goes wrong. The entire regulatory structure rests on the assumption that a commercial driver knows the rules, accepted the responsibility, and agreed to be held to them.

1.2 The Lower BAC Limit for CDL Drivers (0.04)

Most drivers know the standard DWI threshold: a blood alcohol concentration (BAC) of 0.08 percent. That is the number most people have in mind when they decide whether it is safe to drive after having a drink.

For commercial drivers operating a commercial vehicle, that number is cut in half.

The federal limit for CDL drivers behind the wheel of a commercial motor vehicle is 0.04 BAC. That is the point at which a commercial driver can face disqualification, regardless of whether they feel impaired, regardless of whether they are driving well, and regardless of whether the arresting officer believes they are intoxicated in the ordinary sense of the word.

The reasoning is straightforward: regulators decided that the margin of safety for large commercial vehicles should be greater. Even modest amounts of alcohol can slow reaction time, affect judgment, and reduce coordination. In a passenger car, those effects may be small. In a vehicle weighing tens of thousands of pounds, they can be catastrophic.

WHY THE CDL ALCOHOL LIMIT IS ONLY 0.04

The law treats CDL holders as professional operators responsible for vehicles capable of causing major harm in a crash. Regulators decided that commercial drivers must remain further from impairment than ordinary motorists—which is why the alcohol limit is 0.04 when operating a commercial vehicle, exactly half the standard DWI threshold of 0.08.

1.3 How Little Alcohol It Takes to Reach 0.04

One of the most dangerous misconceptions among CDL drivers is the belief that reaching 0.04 requires heavy drinking. In reality, it may not take much at all.

Alcohol absorption depends on a range of variables: body weight, gender, metabolism, whether food was consumed, how quickly drinks were consumed, and how much time has elapsed since the last drink. Two drivers of different builds who drink the same amount can register very different BAC readings at the same moment.

For some drivers—particularly those with lower body weight or faster alcohol absorption—a single drink may be enough to push them close to 0.04. One or two drinks consumed over a short period could put a driver over the limit before they feel anything close to what they would call impaired.

What makes this more complicated is that BAC does not stop rising the moment a person stops drinking. Alcohol can continue to be absorbed into the bloodstream for thirty to ninety minutes after the last drink. A driver who stops drinking, waits a while, and then gets behind the wheel may find that their BAC is still climbing when an officer pulls them over.

This is not an argument for avoiding alcohol entirely—that is a personal choice. But it is an argument for understanding that the margin between “I feel fine” and “over the CDL limit” is much narrower than most drivers expect.

HOW MANY DRINKS CAN PUT YOU OVER 0.04?

For many CDL drivers, reaching the 0.04 limit may require only one or two drinks—depending on body weight, metabolism, and timing. BAC can also continue rising for up to ninety minutes after

a person stops drinking, which means a driver who waits before getting behind the wheel may still be over the limit when stopped.

The takeaway is simple: the gap between feeling fine and being over the CDL limit is smaller than most drivers realize.

1.4 The 0.04 vs. 0.08 Confusion

Many CDL drivers arrive at my office confused about which standard applies to them. The answer depends on what they were driving when they were stopped—and understanding the distinction can make a meaningful difference in how a case unfolds.

When a CDL holder is operating a commercial motor vehicle, the 0.04 limit applies. That is the federal standard, and Texas enforces it. A reading at or above 0.04 while behind the wheel of a CMV can trigger CDL disqualification even if the driver is not criminally charged under the standard DWI statute.

When a CDL holder is driving a personal vehicle—a pickup truck, a family car, anything that is not a commercial motor vehicle—the standard 0.08 threshold generally applies for the criminal DWI charge. But here is the critical point: even if the criminal charge uses the 0.08 standard, a conviction for that offense can still result in CDL disqualification.

In other words, the two limits do not operate in isolation. A CDL driver can face consequences under CDL law even when the underlying incident had nothing to do with a commercial vehicle. The professional license follows the driver, not just the truck.

THE 0.04 VS. 0.08 CONFUSION

CDL drivers face two different alcohol thresholds:

0.04 BAC — Applies when operating a commercial motor vehicle.

A reading at or above this level can trigger CDL disqualification.

0.08 BAC — The standard DWI threshold that applies when driving a personal vehicle.

Important: Even when the 0.08 standard governs the criminal charge, a conviction can still carry CDL consequences. The professional license does not disappear when a driver steps out of the truck.

1.5 Why Police Pay Special Attention to Commercial Drivers

Law enforcement officers receive specific training on commercial vehicle enforcement. That training reflects a straightforward reality: when a vehicle weighing 40 tons or more is involved in a serious crash, the consequences are rarely survivable for the smaller vehicle. Officers know this, and many are actively looking for signs of impairment when they observe a commercial driver.

Commercial vehicles draw scrutiny in ways that passenger cars do not. Weigh stations provide an opportunity for roadside inspections. Routine patrols on major freight corridors often include watching for irregular driving behavior in large trucks. Port-of-entry checks, federal inspection programs, and coordinated enforcement campaigns all add additional layers of oversight.

If an officer conducting any of these stops detects even a hint of alcohol—through odor, behavior, slurred speech, or erratic driving—the encounter can quickly escalate into a full DWI investigation. And because commercial drivers are subject to federal regulations that include drug and alcohol testing requirements, officers may have additional tools available to them that would not apply to an ordinary motorist.

The practical implication is that CDL drivers are more visible, more frequently stopped, and more thoroughly scrutinized

than most drivers on the road. That is not unfair treatment—it is the regulatory environment that comes with operating a commercial vehicle.

WHY OFFICERS OFTEN PAY EXTRA ATTENTION TO COMMERCIAL DRIVERS

Commercial vehicles are larger and heavier than passenger cars, carry more potential for catastrophic damage in a crash, and are subject to federal safety regulations that include drug and alcohol requirements. For all of these reasons, officers are trained to monitor commercial drivers closely—and a routine stop can become a DWI investigation faster than many drivers expect.

1.6 Federal Regulations Governing Commercial Drivers

One of the most significant differences between CDL drivers and ordinary motorists is that commercial drivers answer to two regulatory systems at once: state law and federal law.

The federal agency responsible for commercial driver regulation is the Federal Motor Carrier Safety Administration, commonly known as the FMCSA. Established under the Department of Transportation, the FMCSA develops and enforces nationwide safety standards that apply to commercial trucking and bus operations across all fifty states.

Those standards cover a broad range of issues: driver qualification requirements, hours-of-service limits that govern how long a driver can operate before resting, mandatory drug and alcohol testing programs, vehicle inspection standards, and more. States are required to incorporate these federal rules into their own commercial driver licensing systems as a condition of participating in the national CDL program.

What this means in practice is that a CDL driver facing a DWI charge in Texas is not simply navigating state criminal law. Federal regulations may affect how the charge is classified, whether CDL disqualification is triggered, and what reporting obligations the driver or employer must fulfill. The two systems interact, and a skilled attorney needs to understand both.

WHAT IS THE FMCSA?

The Federal Motor Carrier Safety Administration is the federal agency responsible for regulating commercial trucking and bus operations nationwide. The FMCSA establishes safety standards covering driver licensing, hours-of-service limits, drug and alcohol testing, and vehicle inspections. Every state—including Texas—must follow these standards to participate in the national commercial driver licensing system.

1.7 How Federal Rules Influence Texas CDL Law

Texas does not operate its CDL system as an independent state program. Federal law requires all states to comply with minimum commercial driver licensing standards, and compliance is not optional. States that fail to meet federal requirements risk losing access to federal highway funding—a consequence serious enough that no state is willing to accept it.

As a result, Texas has incorporated federal CDL rules into its own Transportation Code and administrative regulations. The BAC limits, the disqualification timelines, the reporting requirements—these are all shaped by federal mandates, even when enforced by Texas courts and the Texas Department of Public Safety.

For CDL drivers, this means that certain consequences of a DWI charge are essentially non-negotiable at the state level. Texas cannot simply waive a federally required CDL

disqualification the way it might exercise discretion in sentencing. When federal law says a CDL must be disqualified for a certain period, that requirement carries the force of federal regulation behind it.

This is one reason why CDL DWI cases require an attorney who understands both state criminal law and the federal regulatory framework. The two systems are intertwined, and decisions made in the criminal case can have cascading consequences on the administrative side.

1.8 Why CDL Violations Follow Drivers Across State Lines

A misconception I encounter regularly is the belief that what happens in one state stays there—that a CDL driver arrested in another state can return to Texas without consequence. This is not how the system works.

Commercial driver violations are tracked through national databases that allow states to share information with one another. The two most important systems are the Commercial Driver's License Information System (CDLIS), which maintains records on CDL holders across the country, and the National Driver Register, which tracks serious traffic violations and license actions.

When a CDL driver is arrested or convicted in another state, that state is required to report the action to the driver's home state. Texas will receive notice of the violation, and Texas CDL authorities will act on it. The driver cannot avoid the consequences by crossing a state line any more than they can avoid them by applying for a CDL in a different state—the national databases follow the driver.

This has practical implications for any CDL driver who spends time in multiple states, as many professional drivers

do. A violation in Louisiana or Oklahoma is not a local matter. It is a matter that will find its way back to Texas.

WHY CDL VIOLATIONS FOLLOW YOU ACROSS STATE LINES

Commercial driver violations are tracked through two national systems: the Commercial Driver's License Information System (CDLIS) and the National Driver Register. When a CDL driver is arrested or convicted in another state, that state reports the action to the driver's home state.

There is no crossing state lines to escape CDL consequences. Texas will be notified—and will act accordingly.

1.9 What Counts as a Commercial Motor Vehicle

The definition of a commercial motor vehicle (CMV) matters more than many drivers realize, because CDL-specific rules—including the 0.04 BAC limit—apply when a driver is operating a CMV. Whether a particular vehicle qualifies as a CMV can determine which set of rules govern a given situation.

The definition is broader than most people expect. It is not limited to eighteen-wheelers or big-rig trucks. Under federal and Texas law, a CMV generally includes vehicles that meet any of several criteria.

Weight is the first factor. Vehicles with a gross vehicle weight rating of 26,001 pounds or more are commercial motor vehicles. This includes many large box trucks, flatbeds, and tractor-trailers used in freight transportation. Combination vehicles—where a separate cab pulls a trailer—also typically meet this threshold.

Passenger capacity is the second factor. Vehicles designed to transport sixteen or more passengers, including the driver, qualify as CMVs. This covers school buses, charter buses, commercial shuttle vehicles, and similar passenger transport.

Hazardous materials are the third factor. Vehicles transporting quantities of hazardous materials that require placarding under federal law are also classified as CMVs. Drivers operating these vehicles typically hold a hazmat endorsement on their CDL, and they face additional regulatory scrutiny as a result.

Many drivers are genuinely surprised to learn that a large box truck they are borrowing, a charter bus they are filling in on, or a vehicle they assumed was a company matter—not a licensed matter—falls within this definition.

WHAT IS A COMMERCIAL MOTOR VEHICLE?

A commercial motor vehicle (CMV) generally includes any vehicle used in commerce that meets one of these criteria:

- Gross vehicle weight rating of 26,001 pounds or more
- Designed to carry 16 or more passengers (including the driver)
- Transporting hazardous materials requiring federal placarding

The definition is broader than many drivers expect. It is not limited to eighteen-wheelers or dedicated freight vehicles.

1.10 On-Duty vs. Off-Duty: A Common Misunderstanding

Perhaps the most persistent misconception I encounter among CDL drivers is the belief that CDL rules only apply when they are on the clock. Many drivers assume that once they clock out, hand over the keys to the truck, and get into their personal vehicle, they are on the same legal footing as any other driver on the road.

This is partially true and critically incomplete.

It is true that the 0.04 BAC limit applies specifically to the operation of a commercial motor vehicle. If a driver is off duty and driving a personal pickup truck, the standard 0.08 DWI threshold governs the criminal charge.

But it is not true that a DWI conviction while off duty and driving a personal vehicle has no effect on the CDL. Federal regulations require CDL disqualification for serious traffic violations—including DWI convictions—regardless of whether the driver was on duty or operating a commercial vehicle at the time.

What this means is that the CDL is always at risk whenever the driver is behind any wheel. A driver who is careful and professional in a commercial vehicle but who receives a DWI conviction in a personal vehicle on a weekend can find themselves facing the same disqualification consequences as a driver arrested in a truck.

The professional license does not clock out when the driver does.

THE OFF-DUTY MYTH

Many CDL drivers believe that CDL rules apply only when they are driving a commercial vehicle on the job. This is a dangerous misunderstanding.

While the 0.04 BAC limit applies specifically to CMV operation, CDL disqualification can result from a DWI conviction in any vehicle—personal or commercial, on duty or off, in Texas or in another state.

The professional license follows the driver, not just the truck.

Closing Thoughts

Everything in this chapter points to the same conclusion: holding a CDL means operating under a different and more demanding set of rules than almost anyone else on the road.

This is not arbitrary. The rules exist because the consequences of commercial vehicle accidents are severe, because the vehicles are powerful and potentially dangerous, and

because drivers who chose to enter this profession accepted a higher standard of care when they applied for that license.

If you are now facing a DWI charge, understanding this framework is the first step. The stakes for a CDL driver are not just criminal—they extend to the license, the career, the income, and the future. That reality shapes everything about how a CDL DWI case should be approached and defended.

The chapters ahead will walk through what to do next, how the legal process works, what defenses may be available, and how an experienced attorney can work to protect what you have built. But it starts here, with a clear understanding of why CDL drivers are different under the law.

Frequently Asked Questions

Does the 0.04 BAC limit apply when I'm driving my personal vehicle?

No—the 0.04 limit applies when you are operating a commercial motor vehicle. When driving a personal vehicle, the standard 0.08 DWI threshold generally governs the criminal charge. However, a DWI conviction while driving a personal vehicle can still result in CDL disqualification. The criminal charge and the CDL consequence are two separate things.

Can I lose my CDL if I was off duty when I was arrested?

Yes. CDL disqualification can result from a DWI conviction regardless of whether you were on duty or off duty at the time, and regardless of whether you were driving a commercial vehicle or a personal one. Federal regulations tie CDL disqualification to the conviction itself, not to the circumstances of employment.

Can a DWI in another state affect my Texas CDL?

Yes. Commercial driver violations are reported through national databases, including the Commercial Driver's License Information System and the National Driver Register. Texas will receive notice of a DWI arrest or conviction in another state, and Texas CDL authorities will act on that information. There is no effective way to keep an out-of-state violation from following you home.

What kinds of vehicles require a CDL?

A CDL is generally required to operate vehicles with a gross vehicle weight rating of 26,001 pounds or more, vehicles designed to carry sixteen or more passengers including the driver, and vehicles transporting quantities of hazardous materials requiring federal placarding. This definition is broader than most drivers expect—it includes large box trucks, buses, and hazmat vehicles, not just tractor-trailers.

If I was under 0.08, can I still get in trouble as a CDL driver?

Yes. When operating a commercial motor vehicle, CDL drivers face the 0.04 BAC threshold—half the standard DWI limit. A reading between 0.04 and 0.08 would not support a standard DWI charge, but it can trigger CDL disqualification and other consequences under federal commercial driver regulations.

Why are commercial drivers held to stricter rules?

The stricter standards reflect the risks that come with operating large commercial vehicles. A tractor-trailer carrying 80,000 pounds presents dangers that a passenger car simply does not. Regulators determined that drivers of these vehicles

must meet a higher standard of care, which is reflected in lower BAC limits, mandatory testing programs, and more severe consequences for violations.

What happens if a CDL driver violates federal safety regulations?

Depending on the nature and severity of the violation, consequences can include CDL disqualification, employer discipline or termination, and mandatory reporting to federal and state databases. In serious cases, violations can result in permanent CDL disqualification. Federal violations are also tracked in national databases, which means they follow the driver across state lines and across employers.

Does refusing a chemical test affect CDL drivers differently?

Yes, and often more severely. Under federal regulations, a CDL driver’s refusal to submit to a chemical test when lawfully requested can trigger CDL disqualification—sometimes equivalent to or greater than the disqualification for a failed test. Refusal is treated as a serious violation under both federal and Texas law. We will cover this in detail in a later chapter, but it is important to understand from the outset that refusal is not a safe option for CDL drivers.

CHAPTER 2

THE TWO TYPES OF CDL DWI SITUATIONS

Most commercial drivers I speak with after a DWI arrest share one belief: that the rules only apply when they're behind the wheel of a truck.

It is an understandable assumption. The CDL exists to regulate commercial driving. The stricter alcohol limits exist because of commercial vehicles. So it seems logical that a DWI charge would only threaten a CDL if it happened while driving commercially.

But that logic does not match the law.

There are two distinct situations that can threaten a commercial driver's license—and only one of them involves a truck. Understanding the difference between these two scenarios, and how each one is treated, is essential for any CDL holder who finds themselves facing a DWI charge.

THE TWO CDL DWI SITUATIONS MOST DRIVERS DON'T UNDERSTAND

Situation One: A DWI while operating a commercial motor vehicle.

Situation Two: A DWI while driving a personal vehicle.

Both situations can threaten a CDL. Both can affect employment. The consequences are not always the same—but in either case, the stakes are higher than most drivers expect.

2.1 Why CDL Drivers Face Two Different Scenarios

The reason both situations can affect a CDL comes down to how the law treats commercial driving licenses. Unlike an ordinary driver's license, a CDL is a professional credential with its own set of regulatory standards. Those standards do not disappear when a driver steps out of the truck.

Federal regulations require CDL disqualification for certain serious traffic violations—including DWI convictions—regardless of what the driver was operating at the time. The violation goes on the driver's record, and the record follows the license.

This is a fundamental distinction that separates CDL holders from the general driving public. An ordinary driver who receives a DWI while off duty generally faces only the standard criminal and administrative consequences. A CDL holder faces those consequences plus the potential loss of the professional license that defines their livelihood.

The remainder of this chapter looks at each situation in detail, starting with the more severe of the two.

SITUATION ONE

DWI While Driving a Commercial Vehicle

You are hauling freight across West Texas on a long over-night run. Traffic is thin and the highway is quiet. A state trooper pulls behind your rig and activates the lights.

The officer says your vehicle drifted slightly within the lane. After a brief conversation, questions about alcohol follow. You are asked to step out of the truck. A roadside investigation begins.

This is Situation One.

Being stopped while operating a commercial motor vehicle and investigated for DWI is the scenario most CDL drivers already fear—and with good reason. It is the most serious of the two situations, and it can set consequences in motion very quickly.

2.2 Why a DWI in a Commercial Vehicle Is Treated More Seriously

The harsher treatment of CDL drivers in commercial vehicles reflects the same logic we discussed in Chapter 1. A fully loaded tractor-trailer weighs as much as 80,000 pounds. A school bus carries children. A hazmat vehicle is hauling materials that can be lethal in a crash. When something goes wrong with vehicles like these, the consequences are rarely limited to the drivers involved.

Federal regulators made a deliberate decision: the standard of care for commercial drivers behind the wheel of a commercial vehicle must be higher than for ordinary motorists. That decision is reflected not just in the lower BAC threshold, but in the severity of the consequences that follow a violation.

A DWI arrest while operating a commercial motor vehicle does not just trigger a criminal case. It can simultaneously set

off a licensing action, an employer investigation, and a federal reporting process—all running at the same time, all potentially with lasting consequences.

WHY A DWI IN A COMMERCIAL VEHICLE IS TREATED SO SERIOUSLY

Regulators impose stricter penalties when a DWI occurs in a commercial vehicle because the vehicles are larger and heavier, crashes cause far greater damage, and CDL holders are licensed as professional operators who accepted a higher standard of care.

The law reflects a straightforward premise: when the potential for harm is greater, the margin for error must be smaller.

2.3 CDL Disqualification: What It Actually Means

Many drivers hear the phrase “CDL disqualification” and assume it means the same thing as a regular driver’s license suspension. The two terms sound similar, but they describe different things—and for a commercial driver, the distinction matters enormously.

A driver’s license suspension is an action against the general driving privilege. It affects a person’s ability to drive any vehicle on public roads. A CDL disqualification, on the other hand, is an action specifically against the commercial driving privilege. It removes the ability to operate a commercial motor vehicle.

In some cases, a driver who is disqualified from driving commercially may still retain a regular driver’s license and continue driving personal vehicles. But for someone whose entire income depends on operating a truck or bus, that distinction offers little comfort. CDL disqualification effectively means they cannot work.

The disqualification timelines are set largely by federal regulation and can extend from months to years depending on the nature of the violation. First offenses carry significant minimums. Repeat offenses can result in lifetime disqualification.

WHAT “CDL DISQUALIFICATION” ACTUALLY MEANS

License suspension and CDL disqualification are not the same thing.

A driver’s license suspension affects the right to drive any vehicle.

CDL disqualification removes the right to operate commercial vehicles specifically.

A driver may still hold a regular license after CDL disqualification—but if their livelihood depends on driving commercially, that distinction may offer little practical relief. CDL disqualification is, for most professional drivers, the same as losing the ability to work.

2.4 Employer Reporting Requirements

Many CDL drivers who are arrested assume they will have time to handle things privately before needing to tell their employer. For some, the hope is to resolve the matter before anyone at the company finds out.

That window is usually much shorter than drivers expect.

Federal regulations require CDL drivers to report certain convictions to their employer within thirty days. Employers are also prohibited from allowing a driver to operate a commercial vehicle who they know or should know has been convicted of a disqualifying offense. Together, these rules create a framework in which employers have both a right and an obligation to know what is happening with a driver’s record.

Beyond the legal reporting requirements, many large carriers run continuous driver monitoring programs that notify

them automatically when something changes on a driver's motor vehicle record. An arrest that a driver has not yet disclosed may already be appearing on a company dashboard. By the time a driver considers whether to say something, the company may already know.

WHY TRUCKING COMPANIES OFTEN LEARN ABOUT A DWI QUICKLY

Federal regulations require CDL drivers to report certain convictions to their employer within thirty days. Employers are also prohibited from allowing a disqualified driver to operate commercial vehicles.

Many large carriers go further, using continuous monitoring programs that flag changes to a driver's motor vehicle record in real time. A driver who has not yet said anything may find that their employer already has.

The assumption that a DWI can be handled quietly before work finds out is, for most CDL drivers, not a reliable one.

2.5 The DOT Safety Investigation

When a CDL driver is arrested for DWI while operating a commercial vehicle, the process that follows is rarely limited to the criminal case. Most carriers have internal safety departments, and a serious incident involving one of their drivers typically triggers a review.

The company's investigation is separate from the criminal proceedings and does not wait for them to conclude. Safety personnel may review the police report, examine whether company policies were violated, assess the driver's prior record, and make recommendations about continued employment or driving assignments.

Federal safety regulations also give the Department of Transportation authority to investigate motor carriers and their drivers when safety concerns arise. A DWI arrest involving a commercial vehicle can create regulatory exposure not just for the driver, but for the carrier as well.

What this means in practice is that a CDL driver facing a DWI charge after a commercial vehicle stop is simultaneously navigating a criminal case, a licensing action, and a workplace investigation—three separate processes, each with its own timeline and consequences, all running at once.

THE DOT SAFETY INVESTIGATION

After a CDL driver is arrested while operating a commercial vehicle, the employer’s safety department typically conducts its own review. That investigation does not wait for the criminal case to resolve.

The company may examine the police report, evaluate whether internal policies were violated, and assess what action is appropriate. This process can affect driving assignments and employment status independently of anything that happens in court.

2.6 Additional Workplace Consequences

Even before a criminal case is decided—sometimes within days of an arrest—a CDL driver may face consequences at work. The form those consequences take depends on the carrier, its internal policies, and the specifics of the situation, but the range of possibilities is significant.

A driver may be temporarily removed from driving duties while the matter is under review. They may be suspended, with or without pay, pending the outcome of the investigation. In cases where the company has a strict alcohol policy or where

the arrest involved serious circumstances, termination may follow quickly.

Some companies offer a pathway through rehabilitation or employee assistance programs, particularly for drivers with long and otherwise clean records. Others do not. But in almost every case, the employment consequences begin before the legal process has run its course—which means a driver can be without work long before anything is decided in court.

SITUATION TWO

DWI While Driving a Personal Vehicle

It is a Saturday evening. You are not on the clock. You are driving your pickup truck home from dinner with friends.

A police officer pulls you over and says you were speeding. During the stop, questions about alcohol come up. A roadside investigation begins.

Eventually, you are arrested for DWI.

You are not driving a truck. You are not working. This has nothing to do with your job.

Or so it seems.

This is Situation Two—and it is the one that catches most CDL drivers off guard.

2.7 The Common Misconception

The reasoning seems intuitive. The CDL exists for commercial driving. The rules in Chapter 1 all talked about commercial vehicles and federal trucking regulations. So a DWI in a personal pickup truck, on a weekend, while completely off duty, should be a regular DWI with regular consequences.

The problem is that CDL law does not work that way.

A CDL is a professional license attached to the driver, not to any particular vehicle. The regulatory standards that come with it—including the consequences for certain serious traffic violations—apply to the driver regardless of what they are driving when the violation occurs.

This is the part of CDL law that surprises people most. And it is the part that, if misunderstood, can lead a driver to respond to a personal-vehicle DWI as though it were a routine matter—when in reality it carries the same potential to derail a career as an arrest in the truck.

THE “PERSONAL VEHICLE” MISCONCEPTION

Many CDL drivers believe that a DWI in a personal vehicle cannot affect their commercial driving privileges. This belief is understandable, but it is wrong.

A CDL is a professional license attached to the driver, not the vehicle. Certain serious convictions—including DWI—can trigger CDL disqualification regardless of what the driver was operating at the time of the arrest.

2.8 How a Personal-Vehicle DWI Can Still Affect a CDL

Federal regulations tie CDL disqualification to the underlying conviction, not to the vehicle involved. A DWI conviction is a DWI conviction. The question regulators ask is whether the driver was convicted of a qualifying offense—not whether they were in a truck when it happened.

Texas CDL rules incorporate these federal standards. A conviction for DWI in a personal vehicle appears on the driver’s motor vehicle record. That record is evaluated when CDL disqualification decisions are made. A driver whose record shows

a DWI conviction—regardless of the circumstances—may face the same disqualification period as a driver arrested in a commercial vehicle.

The result is that the weekend arrest, in the personal truck, on the night off, carries consequences that reach directly into Monday morning—and every workday after.

2.9 Reporting Through Federal Databases

As discussed in Chapter 1, commercial driver records are tracked through national systems that allow states and employers to share information. A DWI conviction in a personal vehicle is reported through these same systems.

Once a conviction appears in a driver's record, it is visible to state CDL authorities, to current employers running background checks, and to prospective employers considering a driver for a new position. The nature of the vehicle involved does not segregate the information into a separate category. A conviction is a conviction, and the databases treat it accordingly.

This has practical implications for drivers who hope a personal-vehicle DWI will not affect their professional reputation. In the commercial trucking industry, where driving records are routinely checked and carefully evaluated, that hope is unlikely to be realized.

2.10 Why Trucking Companies Cannot Ignore These Violations

Even carriers that might prefer to look the other way face strong incentives not to. Trucking companies operate under federal safety regulations that affect their safety rating—a rating that influences their ability to continue operating, their

insurance premiums, and their access to contracts with major shippers. Allowing a driver with a disqualifying offense to operate a commercial vehicle can expose the carrier to serious liability.

Insurance companies are also paying close attention. A carrier that employs a driver with a recent DWI conviction may face higher premiums, reduced coverage, or, in the worst cases, policy cancellation. The business pressure to act on violations—even personal-vehicle violations—is substantial.

The result is that many carriers adopt strict policies that apply to any DWI-related arrest or conviction, regardless of whether it occurred in a company vehicle, a personal vehicle, on duty, or off. From the company's perspective, the legal and financial exposure is the same either way.

WHY TRUCKING COMPANIES ARE STRICT ABOUT DWIS

Commercial carriers face significant business pressures to act on DWI violations, regardless of whether they occurred in a company vehicle:

- Federal safety ratings depend on driver behavior and can affect operating authority
- Insurance companies may raise premiums, reduce coverage, or cancel policies
- Liability exposure in a crash is substantial if a carrier knowingly employed a driver with a disqualifying record

These pressures drive many carriers to take action after an arrest—often before the criminal case is resolved.

WHAT HAPPENS TO YOUR JOB AFTER A CDL DWI ARREST?

Employment consequences vary by carrier and circumstance, but common outcomes include:

- Temporary removal from driving assignments while the matter is under review
- Suspension, with or without pay, pending investigation
- Required participation in an employee assistance or rehabilitation program
- Termination

In many cases, employment consequences begin before the legal process has concluded. A driver may be without work for months before anything is decided in court.

Closing Thoughts

For CDL drivers, the question after a DWI arrest is not just “what happens in court?” It is also: what happens to my license? What happens at work? What happens to my career?

Whether the arrest occurred in a commercial vehicle or a personal one, both situations carry the potential to threaten a CDL—and through it, the livelihood built on that license. The commercial vehicle scenario tends to move faster and carry more immediate consequences. The personal vehicle scenario tends to catch drivers off guard precisely because they do not expect it to matter.

Both deserve immediate attention. Both warrant serious legal counsel. And in both situations, the time between an arrest and the decisions that follow is shorter than most drivers realize.

The chapters ahead will address what a CDL driver should do immediately after an arrest, how the licensing and criminal

processes interact, and what defenses may be available. But the foundation for all of that is understanding that a DWI charge—in any vehicle, at any time—is a professional matter as much as it is a legal one.

Frequently Asked Questions

What is the difference between a DWI in a commercial vehicle and one in a personal vehicle?

A DWI while operating a commercial motor vehicle tends to trigger more immediate and severe licensing consequences—including the possibility of CDL disqualification on a faster timeline. A DWI in a personal vehicle can still result in CDL disqualification, but the process may unfold somewhat differently. In both situations, employment consequences and federal database reporting are likely.

Can I lose my CDL immediately after a DWI arrest in a commercial vehicle?

An arrest alone does not automatically disqualify a CDL, but the process can move quickly. Depending on the circumstances, an administrative licensing action may begin shortly after an arrest. A conviction can then trigger mandatory disqualification periods under federal and state law. The key is not to wait—contact an attorney as soon as possible after an arrest to understand what timelines apply.

If I was driving my personal vehicle, why would it affect my CDL?

Because a CDL is a professional license attached to the driver, not the vehicle. Federal regulations require CDL

disqualification for certain serious convictions—including DWI—regardless of what the driver was operating when the offense occurred. The underlying conviction is what triggers the consequence, not the type of vehicle involved.

Will my trucking company find out about my arrest?

In most cases, yes—and often faster than drivers expect. Federal regulations require drivers to report certain convictions to their employer within thirty days. Many carriers also run continuous monitoring programs that flag changes to a driver's motor vehicle record automatically. Assuming an arrest can be handled quietly before the company finds out is generally not a reliable strategy.

Can my employer take action before I've been convicted?

Yes. Employers are not required to wait for a criminal conviction before acting. Most carriers have internal policies governing arrests and alcohol-related incidents, and a safety department review can begin within days of an arrest. Removal from driving duties, suspension, or termination can all occur before the criminal case has resolved.

Does a personal-vehicle DWI automatically disqualify my CDL?

Not automatically—the process depends on the outcome of the case and the applicable administrative procedures. But a conviction can lead to CDL disqualification regardless of the vehicle involved. The distinction between automatic and potential disqualification matters less in practice than drivers often hope: the risk is real and substantial in either case.

Will a CDL DWI affect my ability to get another trucking job?

It can—significantly. A DWI conviction appears on a driver’s motor vehicle record and in federal databases that trucking companies routinely check during the hiring process. Many carriers have policies that disqualify applicants with recent DWI convictions. The impact on future employment is one of the most important long-term consequences a CDL driver faces after a DWI arrest.

If my criminal case is dismissed, can my CDL still be affected?

Potentially, yes. Licensing consequences are sometimes handled through separate administrative processes that operate independently of the criminal case. A dismissal in criminal court does not automatically undo an administrative action that has already been taken. This is one of the most important—and most frequently misunderstood—aspects of CDL DWI cases, and we will address it in detail later in this book.

CHAPTER 3

BAC LIMITS FOR COMMERCIAL DRIVERS

Of all the things a CDL driver needs to understand about DWI law, the numbers matter most.

Most drivers know the standard limit: 0.08. That is the blood alcohol concentration threshold that governs DWI charges for the general public. For many years, that number has been prominent in public safety campaigns, on highway signs, and in conversations about responsible drinking.

For commercial drivers, the relevant number is different. It is lower, it is stricter, and it applies in situations that many drivers do not fully anticipate. Understanding it—along with the science behind it, the other substances that can trigger a DWI charge, and the testing procedures used to detect impairment—is essential for anyone whose livelihood depends on a CDL.

One of the most common things I hear from CDL drivers after an arrest is some version of the same statement: “I didn’t think I was over the limit.” In many cases, that is not a lie or an excuse. It is a genuine misunderstanding of how the law applies to commercial drivers—and of how the body processes alcohol. This chapter addresses both.

THE 0.04 RULE

3.1 Why Alcohol Limits Are Different for CDL Drivers

The decision to set a stricter alcohol limit for commercial drivers was not arbitrary. It reflects the same logic that underlies CDL law more broadly: commercial vehicles are larger, heavier, and more capable of causing serious harm than ordinary passenger vehicles. When the potential consequences of impaired driving are severe, the margin for error must be correspondingly small.

A tractor-trailer at highway speed carries enormous momentum. The stopping distances are longer. The turning radius is wider. The blind spots are larger. A driver who is even slightly impaired—whose reaction time is slowed by fractions of a second, whose attention drifts for a moment—may be unable to respond to an emergency in time. That is the reality regulators had in mind when they drew the line at 0.04.

Many CDL drivers misunderstand the limit, or do not know it exists, until they find themselves on the wrong side of it. That misunderstanding can be costly.

3.2 The Lower BAC Limit: 0.04

When a commercial driver is operating a commercial motor vehicle, the legal threshold for intoxication is a blood alcohol concentration of 0.04 percent. That is exactly half the 0.08 limit that applies to most drivers on the road.

Driver Category	Legal BAC Limit
Standard drivers (21 and over)	0.08
CDL drivers operating a commercial vehicle	0.04

The practical implication of this difference is significant. A driver who has consumed an amount of alcohol that would leave them well below the standard DWI limit may still be over the CDL threshold. A driver who feels fine, who is not visibly impaired by any measure they can perceive, may still register above 0.04.

The 0.04 limit does not ask whether the driver feels impaired. It establishes a bright line, and crossing it while behind the wheel of a commercial vehicle has consequences regardless of how the driver feels in the moment.

THE ONE-DRINK MISTAKE MANY CDL DRIVERS MAKE

Many CDL drivers assume that having one drink is always safe. But the 0.04 limit is low enough that even one or two drinks—depending on body weight, metabolism, timing, and whether food was consumed—may bring a driver close to or over the threshold.

The only way to be certain of staying below 0.04 is to avoid alcohol entirely before operating a commercial vehicle. For CDL holders, that is not an overcautious approach. It is a professional standard.

3.3 Why the Limit Is Lower

Federal safety regulators drew the line at 0.04 for commercial drivers because the vehicles they operate present risks that passenger cars simply do not. A fully loaded tractor-trailer may weigh as much as 80,000 pounds—roughly twenty to twenty-five times more than a typical passenger vehicle. Buses carry passengers. Hazmat vehicles carry materials that can be lethal if released. The consequences of a serious crash involving any of these vehicles can be catastrophic in a way that most passenger vehicle accidents are not.

There is also the professional dimension. A CDL is a professional license. It carries with it an implicit acknowledgment that the driver has been trained to a higher standard and accepts a higher standard of care. Much as an airline pilot is subject to strict alcohol rules before a flight, a commercial driver is expected to operate with a margin of safety that reflects the responsibility of the work.

Finally, research on alcohol and driving has consistently shown that even small amounts of alcohol affect the functions most critical to safe driving: reaction time, divided attention, judgment, and coordination. At 0.04, those effects may be subtle. But subtle impairment in a vehicle with the stopping distance of a semi-truck is not the same as subtle impairment in a car.

3.4 How Drivers Unintentionally Exceed 0.04

The 0.04 limit creates a situation that many drivers find genuinely surprising: it is possible to exceed it without feeling impaired, without drinking heavily, and without making what most people would consider an irresponsible decision about alcohol.

Accurately estimating one's own BAC without a testing device is extremely difficult. The relationship between how many drinks a person has consumed and their resulting blood alcohol level is not a simple formula. It depends on a range of variables that differ from person to person and from day to day.

One particularly important factor is the timing of alcohol consumption relative to driving. BAC does not peak the moment a person finishes their last drink. Alcohol continues to be absorbed into the bloodstream for a period after drinking stops—typically between thirty and ninety minutes. A driver who waits a while

after their last drink before getting behind the wheel may believe their BAC is declining when it is, in fact, still rising.

A driver finishes dinner and has two beers over the course of an hour. He waits thirty minutes before leaving the restaurant, reasoning that he has given the alcohol time to clear.

What he does not know is that his BAC was still rising during that thirty-minute wait. By the time he is on the highway, his BAC may be at or above the CDL limit—even though he consumed less than most people would consider a significant amount of alcohol, and even though he feels entirely normal.

This scenario is not unusual. It is precisely the kind of situation where a driver can find themselves facing a CDL DWI charge while genuinely believing they were within safe limits.

3.5 Alcohol Metabolism and Body Weight

Understanding how the body processes alcohol helps explain why the relationship between drinking and BAC is so unpredictable.

When a person drinks, alcohol is absorbed through the stomach and small intestine into the bloodstream. It then circulates through the body and reaches the brain, where it produces its effects. The liver gradually breaks down the alcohol at a fairly consistent rate—for most people, approximately 0.015 percent BAC per hour. But that rate varies between individuals and can be affected by liver function, hydration, and other factors.

Body weight plays a significant role because alcohol is distributed throughout the water in the body. A heavier person, all else being equal, has more body water, which dilutes the alcohol more. A lighter person has less, which means the same quantity of alcohol produces a higher BAC. Gender matters for similar reasons, as does the presence of food in the stomach, which slows alcohol absorption and reduces peak BAC.

Time After Drinking	What Is Happening in the Body
0–30 minutes	Alcohol begins absorbing into the bloodstream
30–90 minutes	BAC continues rising; may still be climbing after drinking stops
Peak BAC	Maximum alcohol concentration is reached
After peak	Liver begins processing; BAC gradually declines at ~0.015% per hour

The practical consequence of all this variability is that there is no reliable way for a driver to estimate their own BAC without a testing device. Two drivers who consumed the same drinks over the same period may have meaningfully different BAC levels—and neither would know it without a test.

HOW LONG DOES ALCOHOL STAY IN YOUR SYSTEM?

The body processes alcohol at approximately 0.015 percent BAC per hour for most people. That means a driver who reaches a peak BAC of 0.06 would need roughly four hours to return to zero.

Several factors can affect this timeline: body weight, metabolism, gender, food consumption, and overall health. Because of this variability, the common practice of estimating “how long until I’m sober” based on time alone is unreliable.

For CDL drivers, the lower threshold of 0.04 means the margin for error is even smaller than it would be for a standard driver.

WHY TWO DRIVERS CAN DRINK THE SAME AMOUNT AND HAVE DIFFERENT BAC LEVELS

BAC is shaped by factors that vary from person to person: body weight, metabolism, gender, food in the stomach, and the speed at which drinks are consumed. Two drivers who appear to be in similar condition after the same number of drinks may register very different BAC readings on a test.

This is one reason why relying on how you feel as a guide to whether you are under the CDL limit is not reliable. The only certain way to know is to test.

ALCOHOL VS. DRUG IMPAIRMENT

3.6 DWI Does Not Require Alcohol

Many drivers I speak with after an arrest are surprised to learn that the DWI charge they are facing has nothing to do with alcohol. Texas law defines intoxication in a way that goes well beyond the BAC threshold. Under Texas Penal Code, a person is intoxicated when they do not have the normal use of their mental or physical faculties due to the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, or any other substance into the body.

That definition is deliberately broad. It means a driver can be charged with DWI based on impairment caused by illegal drugs, prescription medications, or even over-the-counter products—without a drop of alcohol in their system. The question is not what the driver consumed. The question is whether they had the normal use of their faculties while operating a vehicle.

For CDL drivers, this matters because the full range of consequences that attach to an alcohol-related DWI—CDL disqualification, employer reporting, federal database entries—can also attach to a drug-related DWI. The substance involved changes the facts of the case. It does not change the severity of the consequences.

ALCOHOL ISN'T THE ONLY CAUSE OF DWI

Under Texas law, a DWI charge can be based on impairment caused by any substance that affects a driver's mental or physical faculties. This includes illegal drugs, prescription medications, and over-the-counter products.

The key question is not what the driver consumed. It is whether they had the normal use of their faculties while driving. CDL drivers face the same professional and licensing consequences from a drug-related DWI as from an alcohol-related one.

3.7 Illegal Drugs and DWI Charges

Illegal controlled substances are the most straightforward category. Marijuana, cocaine, methamphetamine, heroin, and other controlled substances all have the potential to impair driving—affecting reaction time, perception, judgment, and coordination in ways that can be dangerous behind the wheel of any vehicle, let alone a commercial one.

Detecting drug impairment presents a different challenge than detecting alcohol impairment. Breath tests cannot identify most drugs. Blood tests can detect the presence of substances but measuring impairment at the time of driving is more complicated, because drugs metabolize differently than alcohol and may remain detectable in the blood long after

their impairing effects have subsided. This complexity does not make drug DWI charges easier for drivers to defend—in many ways it makes them harder, because the science is less familiar to juries and harder to challenge.

For CDL holders who are subject to mandatory drug testing under federal regulations, an illegal substance conviction carries consequences that extend well beyond the criminal case.

3.8 Prescription Medications and Driving Impairment

The assumption that a legally prescribed medication cannot lead to a DWI charge is one of the most dangerous misconceptions among drivers I see in practice. The law does not distinguish between legal and illegal substances when it comes to impairment. What matters is whether the substance—whatever its legal status—caused the driver to lose the normal use of their faculties.

Certain categories of prescription medication carry real impairment risk. Opioid pain medications can cause drowsiness, slowed reaction time, and impaired coordination. Benzodiazepines and other anti-anxiety medications affect alertness and attention. Muscle relaxants reduce physical control. Sleep aids, even when taken the night before, can leave residual sedation the following morning. Any of these, in the right dose or in combination with other substances, can produce the kind of impairment that leads to a DWI investigation.

The fact that a doctor prescribed the medication is not a legal defense. It may be relevant context that an attorney can use in building a defense strategy. But it does not prevent a charge from being filed.

COMMON MEDICATIONS THAT CAN TRIGGER A DWI INVESTIGATION

Several categories of prescription and over-the-counter medication can impair driving ability in ways that may lead to a DWI investigation:

- Opioid pain medications (hydrocodone, oxycodone, morphine)
- Anti-anxiety medications (benzodiazepines such as Xanax or Valium)
- Sleep aids (prescription and over-the-counter)
- Muscle relaxants (cyclobenzaprine, carisoprodol)
- Antihistamines (diphenhydramine, found in many cold and allergy products)

Drivers taking any of these should review the medication's warning label, consult with their prescribing physician about driving safety, and—if in doubt—not drive commercially until they understand the effects.

3.9 Over-the-Counter Medications That Can Cause Impairment

Over-the-counter products occupy a particular risk category because drivers tend to assume they are harmless. Many are not—at least not from a driving safety standpoint.

Common cold and allergy medications contain antihistamines, some of which produce significant drowsiness. Certain cough syrups contain dextromethorphan, which can cause disorientation at higher doses. Over-the-counter sleep aids almost universally contain diphenhydramine, which has a half-life long enough that residual effects can persist into the following morning. Even some pain relievers, when combined with other substances or taken in higher doses, can affect alertness.

The warning labels on these products often say “may cause drowsiness” and “do not operate heavy machinery.” That warning means what it says. For a CDL driver, a semi-truck qualifies as heavy machinery, and “do not operate” is not a suggestion.

TESTING PROCEDURES

3.10 How Police Test for Alcohol or Drug Impairment

When an officer suspects a driver may be impaired, the investigation does not begin with a breathalyzer. It begins with observation. Officers are trained to notice the indicators of impairment that appear before any formal testing takes place: the pattern of driving that prompted the stop, the driver’s behavior during the initial contact, the odor of alcohol or marijuana, slurred speech, red or watery eyes, unsteady movement.

If initial observations suggest possible impairment, an officer may ask the driver to perform standardized field sobriety tests. These tests—the horizontal gaze nystagmus test, the walk-and-turn, and the one-leg stand—are designed to assess coordination, balance, and divided attention. They are also designed to give the officer additional grounds for probable cause to arrest, which is why the results matter even before any chemical testing begins.

If the officer establishes probable cause, chemical testing follows. The type of test used—breath or blood—depends on the circumstances, the suspected substance, and whether the driver submits voluntarily.

3.11 Breath Testing

Breath testing is the most common method used to measure blood alcohol concentration in Texas DWI investigations.

The device used at the police station—typically a model called the Intoxilyzer—works by measuring the concentration of alcohol in an exhaled breath sample and converting it to an estimated BAC based on the physiological relationship between breath alcohol and blood alcohol.

Breath tests are conducted at the station rather than at the roadside. The roadside test—called a portable breath test or PBT—gives the officer an estimate and can inform the decision to arrest, but its results are generally not admissible as evidence of BAC in court. The official test is the one conducted on the station’s certified equipment.

Breath testing has limitations that a skilled defense attorney can explore. The machines require regular calibration and maintenance. The testing protocol must be followed precisely. Certain physiological conditions and substances can affect results. These are not arguments for refusing a test—refusal carries its own serious consequences, as we will discuss below—but they are potential avenues for challenging the accuracy of a result.

3.12 Blood Testing

Blood testing measures the actual concentration of alcohol or drugs directly from a blood sample. It is more precise than breath testing and, unlike a breath test, can detect drugs and controlled substances that a breathalyzer cannot.

Blood tests are used in several circumstances: when drug impairment is suspected rather than or in addition to alcohol, when a driver is unable to perform a breath test due to injury or medical condition, or when a driver refuses a breath test and officers obtain a warrant for a blood draw. In Texas, officers can

obtain a warrant authorizing a forced blood draw under certain circumstances, including when a DWI results in injury or death.

Blood samples are collected by a medical professional and sent to a laboratory for analysis. The chain of custody—how the sample was collected, stored, handled, and tested—is critical, and any break in that chain can become a point of challenge in the defense of the case.

BREATH TEST VS. BLOOD TEST: WHAT'S THE DIFFERENCE?

Breath tests measure alcohol in exhaled breath and convert that measurement to an estimated BAC. They are quick, non-invasive, and provide results at the station. They cannot detect drugs.

Blood tests measure alcohol or drugs directly from a blood sample. They require a blood draw, laboratory analysis, and more time to process. They are more precise than breath tests and can detect a broader range of substances.

Both are used in Texas DWI investigations. Which one is used in a given case depends on the circumstances—and both can be challenged by an experienced defense attorney.

3.13 Drug Recognition Evaluations

When an officer believes a driver may be impaired by drugs rather than alcohol—or by a combination of substances—they may request the assistance of a Drug Recognition Expert, or DRE. A DRE is a law enforcement officer who has received specialized training through a program developed by the National Highway Traffic Safety Administration for identifying drug impairment.

A DRE evaluation involves a structured series of steps: checking vital signs including pulse rate and blood pressure, examining the eyes for nystagmus and pupil size, assessing muscle tone and coordination, and looking for physical signs

associated with specific categories of drugs. The evaluation is designed to help the officer form an opinion about whether the driver is impaired and, if so, by what category of substance.

DRE opinions are admissible in Texas courts and have been used successfully by prosecutors to support DWI convictions in cases where BAC testing showed little or no alcohol. Their scientific reliability is a matter of ongoing debate in defense circles, which means they can be challenged—but they should not be underestimated.

WHAT IS A DRUG RECOGNITION EXPERT?

A Drug Recognition Expert (DRE) is a law enforcement officer trained to identify signs of drug impairment through a multi-step evaluation process. DRE evaluations are used when alcohol is not the primary suspected substance—or when a driver’s breath test shows low or no BAC but impairment is still evident.

The evaluation assesses vital signs, eye movement, pupil size, muscle tone, and coordination. The DRE then forms an opinion about whether impairment is present and what category of drug may be responsible.

DRE testimony is admissible in Texas courts and has supported convictions in the absence of a positive BAC reading.

WHY REFUSING A TEST CAN BE EVEN RISKIER FOR CDL DRIVERS

3.14 Texas Implied Consent Laws

Under Texas law, any person who operates a motor vehicle on a public road is considered to have given their consent to submit to a breath or blood test if lawfully requested by an officer who has arrested them for DWI. This is what the law calls “implied consent”—the act of driving on Texas roads carries with

it an implied agreement to cooperate with chemical testing when the law requires it.

Implied consent does not mean a driver cannot refuse. The physical act of refusal is always possible. But what implied consent means legally is that refusal carries automatic consequences that are separate from, and in addition to, the consequences of the underlying DWI charge. The driver who refuses is not avoiding the system. They are triggering a different part of it.

3.15 Administrative Penalties After a Test Refusal

When a Texas driver refuses a chemical test following a DWI arrest, the state can initiate an Administrative License Revocation, commonly called an ALR. This is a civil, not criminal, proceeding conducted by the Texas Department of Public Safety. Its purpose is to suspend the driver's license as a consequence of the refusal—Independently of anything that happens in the criminal case.

For a first-time refusal, the license suspension period is 180 days. For a driver with a prior alcohol-related contact, it is two years. These suspensions can begin before the criminal case has even reached its early hearings, and they occur regardless of whether the driver is ultimately convicted of DWI.

The driver has a right to challenge the suspension by requesting an ALR hearing within fifteen days of the arrest. Failing to request that hearing within the deadline results in automatic suspension by default. This fifteen-day window is one of the most critical deadlines in any DWI case—missing it eliminates the opportunity to fight the license suspension through the administrative process.

THE HIDDEN RISK OF REFUSING A TEST

Many drivers believe that refusing a breath or blood test will protect them from prosecution by depriving the state of evidence. There is a kernel of truth in this—a refused test is one fewer piece of evidence the state can use.

But refusal triggers automatic administrative consequences under Texas implied consent law: a license suspension that begins before the criminal case is resolved, regardless of its outcome. For a CDL driver, that suspension can mean an inability to work during the period it is in effect.

Whether to submit to testing is a decision with serious consequences either way. It is one that deserves careful thought—and ideally, the advice of an attorney who understands CDL law.

3.16 CDL Disqualification Consequences

For CDL holders, test refusal carries an additional layer of consequences that ordinary drivers do not face. Federal regulations treat a refusal to submit to a chemical test when lawfully requested as the equivalent of a DWI violation for purposes of CDL disqualification. In practical terms, this means that a driver who refuses a test can face the same CDL disqualification that would result from a conviction—without any criminal finding, and sometimes before the criminal case has begun in earnest.

This is one of the most important and least understood aspects of CDL law for commercial drivers. Many believe that refusing a test is a neutral or even protective act. In the CDL context, it is neither. It is a legally consequential decision that can trigger disqualification from commercial driving independently of the outcome of any criminal proceedings.

3.17 Why Refusing a Test Can Be Harder to Undo

The administrative consequences of a refusal move on their own timeline and through their own process. A criminal case can take months to resolve. An ALR suspension can take effect within weeks of an arrest. For a CDL driver who cannot drive during that period, the financial impact begins immediately.

Challenging a refusal-based suspension is possible—but it requires timely action. The fifteen-day deadline to request an ALR hearing is not flexible. Once it passes, the suspension proceeds automatically. Even a successful criminal defense does not undo the administrative suspension if the hearing was not requested in time.

The practical lesson is that the decision to refuse a test, if it is ever made, needs to be understood for what it is: not a safe harbor, but a trade-off that creates its own set of consequences. For CDL drivers, those consequences can be immediate and severe, and they can be difficult to address after the fact.

Closing Thoughts

The rules discussed in this chapter—the 0.04 limit, the drug and medication risks, the testing procedures, the consequences of refusal—are not abstract legal concepts. They are the practical framework within which every CDL DWI investigation unfolds. A driver who understands them is better equipped to make informed decisions at every stage of the process.

That understanding matters before an arrest, because it informs how drivers think about alcohol and medication use in relation to their work. It matters during an arrest, because the decisions made in the moments following a stop can have

lasting consequences. And it matters afterward, when a driver is trying to understand what happened and what their options are.

The chapters that follow will address what to do immediately after a CDL DWI arrest, how the criminal and administrative processes unfold, and what defenses may be available. But the foundation for all of that is a clear-eyed understanding of the standards to which commercial drivers are held—and the science that underlies them.

Frequently Asked Questions

What is the legal alcohol limit for CDL drivers?

When operating a commercial motor vehicle, the limit is 0.04 percent BAC—half the 0.08 standard that applies to most drivers. The 0.08 limit still governs DWI charges for a CDL holder driving a personal vehicle, though a conviction can still affect the CDL. Both limits are relevant to commercial drivers, depending on the circumstances.

Can I be charged with DWI even if my BAC is below 0.08?

Yes, in two different ways. First, if you were operating a commercial vehicle and your BAC was at or above 0.04, you may face CDL-related consequences even if the standard DWI threshold does not apply. Second, under Texas law, a driver can be charged with DWI based on impairment caused by drugs or medications regardless of BAC—the question is whether the driver had the normal use of their mental and physical faculties, not what their BAC reading was.

How many drinks will put a CDL driver over 0.04?

There is no universal answer, because BAC depends on body weight, metabolism, gender, food consumption, drinking

speed, and timing. For some drivers, one or two drinks may be enough to reach or approach 0.04. For others, the threshold may be higher. The variability is precisely why estimating BAC without a testing device is unreliable. For CDL drivers operating commercial vehicles, the only certain way to stay below 0.04 is to avoid alcohol before driving.

Can prescription medications lead to a DWI charge?

Yes. Texas law does not limit DWI to alcohol. Any substance that causes a driver to lose the normal use of their mental or physical faculties can support a charge—including legally prescribed medications. The fact that a doctor prescribed the medication is not a legal defense, though it may be relevant context in building a defense strategy. Drivers taking medications that carry warnings about drowsiness or operating heavy machinery should speak with their physician before driving commercially.

Can over-the-counter medications cause impairment?

Yes. Several commonly used over-the-counter products contain ingredients that can impair driving ability, including antihistamines found in allergy and cold medications, sleep aids containing diphenhydramine, and certain cough suppressants. These products carry warning labels for a reason. CDL drivers should read those labels carefully and understand that “do not operate heavy machinery” applies to commercial vehicles.

What happens if I refuse a breath or blood test in Texas?

Refusal triggers automatic administrative consequences under Texas implied consent law. The state can initiate an Administrative License Revocation proceeding to suspend your

driver's license—for 180 days on a first refusal, or longer if you have prior alcohol-related contact. This suspension can take effect before the criminal case is resolved, regardless of its outcome. For CDL drivers, a refusal can also trigger CDL disqualification consequences under federal regulations.

Does refusing a test protect me from a DWI charge?

Not reliably. A driver may still be charged based on the officer's observations, field sobriety test results, and other evidence gathered at the scene. Refusal removes one piece of evidence—a BAC reading—but it adds another consequence in the form of the administrative license action. Whether refusal is strategically beneficial in a given case is a question for an experienced DWI attorney to evaluate based on all the facts.

Why can refusing a test be especially risky for CDL drivers?

Because federal regulations treat a refusal to submit to a lawfully requested chemical test as the equivalent of a DWI violation for CDL disqualification purposes. This means a CDL driver who refuses can face disqualification from commercial driving without any criminal conviction—sometimes before the criminal case has progressed very far. The administrative process moves on its own timeline and does not wait for the criminal case to conclude.

PART II

What Happens After a CDL DWI Arrest

CHAPTER 4

THE TRAFFIC STOP AND ARREST

For most CDL drivers I have represented, the moment everything changed was unremarkable in its beginnings.

There were no dramatic warning signs. No obvious mistakes. In many cases, the driver had been on the road for hours, hauling freight, doing the job—and then came flashing lights in the mirror. A traffic stop. And from that ordinary starting point, a DWI investigation unfolded.

Understanding how that process works—what the officer is looking for, what the tests are designed to measure, how observations become reports and reports become evidence—is essential for any CDL driver trying to make sense of what happened. It is also essential for understanding where a defense might be built.

This chapter walks through the stages of a typical DWI traffic stop and investigation, from the moment the lights come on to the officer's final written report.

4.1 How DWI Investigations Begin

You are hauling a load eastbound on Interstate 40 through the Texas Panhandle. It is late, traffic is thin, and you have been driving for hours. You reach for your radio, and for a moment your truck drifts slightly toward the lane marker before you correct.

In your mirror, lights begin to flash.

You pull over. You are not sure you did anything wrong. The trooper approaches your window.

What comes next will define the next several months of your life.

Most DWI investigations begin exactly this way: with a traffic stop triggered by something minor. A brief lane drift. A turn without a signal. A taillight that burned out a week ago and was never noticed. Sometimes the driving behavior that prompted the stop was entirely innocent. Sometimes the driver is genuinely surprised they were pulled over at all.

None of that changes what happens next. Once an officer has a lawful reason to initiate a stop, the investigation that follows is governed by its own logic—and for CDL drivers, it moves quickly toward consequences that an ordinary driver would not face.

The legal standard for stopping a vehicle is probable cause or reasonable suspicion: the officer must have an articulable reason to believe a traffic violation occurred or that criminal activity is afoot. In practice, this bar is relatively low, and minor traffic violations—even ones the driver did not intend—are routinely sufficient. The stop itself is rarely the strongest avenue for defense. What matters more is what happens after the stop begins.

WHAT OFFICERS ARE TRAINED TO LOOK FOR DURING A TRAFFIC STOP

Officers who conduct DWI investigations are trained to observe driving behavior before the stop and driver behavior during it. Common pre-stop indicators include drifting within or between lanes, inconsistent speed, delayed braking, unusually wide turns, and failure to maintain a lane.

These behaviors do not prove impairment. Many have innocent explanations—fatigue, distraction, unfamiliar roads. But they are the documented starting point for an investigation, and they will appear in the officer’s report.

For CDL drivers, even minor driving irregularities attract more scrutiny than they would in a passenger vehicle.

WHY CDL DRIVERS ARE OFTEN TARGETED

4.2 Why Commercial Drivers Attract Attention

Commercial vehicles occupy a different position on the road than passenger cars—in a literal sense, but also in the eyes of law enforcement. They are larger, more visible, and more heavily regulated. Officers who patrol major freight corridors are trained to watch commercial vehicles with particular care, and the infrastructure for doing so is more extensive than most drivers realize.

Weigh stations, port-of-entry checkpoints, roadside inspection programs, and dedicated commercial vehicle enforcement units all create more opportunities for CDL drivers to be observed, stopped, and inspected than ordinary motorists ever face. A driver who has covered thousands of miles without incident may still find themselves subject to a routine inspection that, if alcohol is detected, becomes something far more serious.

4.3 Heavy Regulation of Commercial Vehicles

Part of the reason commercial drivers attract more attention is that they are operating within a regulatory framework that explicitly invites it. Federal and state safety rules govern nearly every aspect of commercial trucking: vehicle weight and maintenance, driver qualifications, hours-of-service limits, drug and alcohol testing protocols, and more. Officers who enforce these rules are not just looking for traffic violations—they are enforcing a comprehensive safety system.

This regulatory environment means that a stop which begins as a routine safety inspection can become a DWI investigation if the officer detects signs of impairment. The transition is seamless, and it happens at inspections that a driver had no particular reason to fear.

CAN POLICE STOP A TRUCK WITHOUT A REASON?

The rules governing when police can stop a vehicle are slightly different for commercial trucks than for passenger cars. Officers can direct commercial vehicles into weigh stations or roadside inspection facilities without individualized suspicion—these stops are authorized as part of the commercial vehicle safety regulatory system.

Once a vehicle is stopped for a regulatory inspection, any signs of impairment the officer observes can justify a further DWI investigation. A stop that begins as a weight check or log book inspection can end with a DWI arrest.

For CDL drivers, understanding that the commercial regulatory framework creates additional lawful contact with law enforcement is important context.

4.4 Why Officers Assume CDL Drivers Know the Rules

Officers approach CDL drivers with a different set of assumptions than they bring to a stop involving an ordinary motorist. A commercial driver's license is a professional credential that requires training, examination, and ongoing compliance with federal standards. Officers know this. They know that CDL holders are presumed to understand the rules they operate under, including the stricter alcohol limits and the federal drug and alcohol testing requirements.

That assumption affects the tenor of the investigation. When an officer suspects a CDL driver of impairment, they are not dealing with someone who might not have known the rules. They are dealing with a professional who, by taking the wheel of a commercial vehicle, represented that they were fit to operate it. Officers often take that seriously, and it can influence how aggressively the investigation is pursued.

4.5 Public Safety Concerns Involving Large Vehicles

The weight and size of commercial vehicles is not just a regulatory abstraction—it is a constant factor in how law enforcement approaches CDL DWI investigations. A passenger car weighs roughly three to four thousand pounds. A fully loaded tractor-trailer may weigh eighty thousand. The physics of what happens when an eighty-thousand-pound vehicle is involved in a serious crash are not comparable to what happens with a passenger car.

Officers understand this. When they have reason to suspect a commercial driver may be impaired, the stakes they perceive are higher than in a standard traffic stop. That heightened concern often translates into a more thorough investigation, more detailed documentation, and a lower threshold for proceeding to arrest.

FIELD SOBRIETY TESTS

4.6 What Field Sobriety Tests Are Designed to Measure

If initial observations during the stop give the officer reason to suspect impairment—the odor of alcohol, slurred speech, bloodshot eyes, difficulty producing documents—the investigation moves to a more structured phase. The officer may ask the driver to step out of the vehicle and perform a series of standardized field sobriety tests.

These tests are not casual balance checks. They are standardized evaluations developed by the National Highway Traffic Safety Administration and validated, according to law enforcement researchers, as indicators of impairment above certain BAC levels. Officers receive formal training in how to administer them, and they are expected to follow specific protocols precisely.

What the tests measure, at their core, is divided attention—the ability to do two things at once. Alcohol impairs this ability even at relatively low BAC levels, before a person feels overtly drunk. The tests are designed to expose that impairment by requiring the driver to simultaneously process instructions and perform physical tasks.

DO I HAVE TO PERFORM FIELD SOBRIETY TESTS?

Field sobriety tests are not legally mandatory. In most situations, a driver who is asked to perform them can decline. Officers typically ask rather than order.

However, refusing to perform the tests does not prevent an arrest. The officer may still arrest based on other observations—driving behavior, odor, appearance, speech. A refusal

also removes a potential source of exculpatory evidence: a driver who performs well on the tests may have grounds the defense can use later.

Whether to perform field sobriety tests is a decision with consequences either way. It is one that deserves careful thought in the moment, and one that an attorney can help evaluate after the fact.

4.7 The Horizontal Gaze Nystagmus Test

The horizontal gaze nystagmus test, commonly called the HGN, is the first of the three standardized field sobriety tests and the one many officers consider most reliable. It does not require athletic ability or unusual coordination. It evaluates something the driver cannot consciously control: the involuntary movement of the eyes.

Nystagmus is a natural phenomenon—a slight jerking or bouncing of the eyes as they track a moving object to the side. Alcohol affects the neurological system in ways that exaggerate this movement, causing the eyes to jerk earlier and more visibly than they would in an unimpaired person. The officer conducting the test moves a pen or small flashlight horizontally in front of the driver's face and watches the eyes closely, looking for three specific indicators in each eye: the onset of nystagmus before the eye reaches a forty-five-degree angle, a distinct and sustained jerking as the eye reaches maximum deviation, and a lack of smooth pursuit as the eye tracks the stimulus.

Because nystagmus is involuntary, the HGN is considered less susceptible to nervousness or coaching than the physical coordination tests. However, certain medical conditions can cause nystagmus independently of alcohol, and officers are supposed to account for those possibilities.

THE HORIZONTAL GAZE NYSTAGMUS TEST EXPLAINED

The HGN test evaluates involuntary eye movement—something a driver cannot fake or control. The officer moves a stimulus horizontally while watching the driver’s eyes for three specific signs in each eye: smooth pursuit, distinct nystagmus at maximum deviation, and onset of nystagmus before forty-five degrees.

The test is considered reliable by law enforcement researchers, but certain medical conditions and substances other than alcohol can also produce nystagmus. An experienced defense attorney will examine whether the officer administered the test correctly and whether any medical factors could explain the results.

4.8 The Walk-and-Turn Test

The walk-and-turn test evaluates a driver’s ability to follow multi-step instructions while performing a physical task—the divided-attention problem at the heart of all three standardized tests. The officer instructs the driver to take nine heel-to-toe steps along a real or imaginary straight line, turn using a series of small steps, and return along the same line in the same manner, counting steps aloud throughout.

The officer watches for eight specific clues: inability to maintain balance during instructions, starting before the instructions are finished, stopping while walking, missing heel-to-toe contact, stepping off the line, using arms for balance, making an improper turn, and taking the wrong number of steps. The NHTSA research underlying the test holds that two or more clues indicates a BAC of 0.08 or higher in a statistically significant percentage of subjects.

The test sounds straightforward, but it is administered on the shoulder of a road or in a parking lot, often at night, on pavement that may be uneven or sloped, while the driver is

stressed, fatigued from driving, and acutely aware that their career may be at stake. Under those conditions, sober drivers sometimes struggle.

4.9 The One-Leg Stand Test

The one-leg stand test is the third of the standardized evaluations. The driver is instructed to raise one foot approximately six inches off the ground, keep it raised, look at their foot, and count aloud starting from one thousand while the officer times thirty seconds. The officer watches for four clues: swaying while balancing, using the arms for balance, hopping, and putting the foot down.

Two or more clues, under the NHTSA research, indicates a BAC of 0.08 or higher in a significant percentage of subjects. But the same conditions that complicate the walk-and-turn—fatigue, uneven surface, poor lighting, stress—affect this test as well. Drivers with lower back problems, knee injuries, inner ear conditions, or other physical limitations may struggle with this test even when completely sober.

WHY FIELD SOBRIETY TESTS ARE HARDER THAN THEY LOOK

These tests are not simple balance exercises. They are designed to divide attention between listening to instructions and performing physical tasks simultaneously—which is the ability alcohol specifically impairs.

But impairment is not the only thing that affects performance. Fatigue after a long drive, uneven or sloped pavement, poor lighting, cold or windy weather, and physical conditions like back pain, knee problems, or inner ear issues can all influence the results.

When a defense attorney reviews field sobriety test results, they examine not just the clues the officer observed, but the conditions under which the tests were conducted and the physical history of the driver.

4.10 Why Field Sobriety Tests Are Often Misunderstood

Drivers who have just been through a field sobriety evaluation often describe it as having “failed” the tests—as though passing and failing were simple and obvious outcomes. The reality is more complicated. The tests are scored by the officer in real time, based on their training, their observations, and their judgment about what constitutes a clue. That judgment is not infallible.

Officers must administer the tests precisely according to NHTSA protocols to produce results that are scientifically valid. Deviations from the protocol—failing to demonstrate the walk-and-turn correctly, not allowing the driver to remove shoes for the one-leg stand, conducting the HGN at the wrong distance or speed—can undermine the reliability of the results. A defense attorney reviewing the dashcam footage from the stop may identify errors that were invisible to the driver in the moment.

Nervousness also plays a role that officers are supposed to account for but sometimes do not weight fairly. A CDL driver who knows that their license—their livelihood—is on the line during those tests is under enormous pressure. Shaking hands, a trembling voice, difficulty concentrating: these are normal stress responses, not signs of impairment. But they can look similar from the outside.

WHY NERVOUS DRIVERS SOMETIMES APPEAR IMPAIRED

A traffic stop is stressful under any circumstances. For a CDL driver who knows their license and career are potentially at stake, the stress can be acute. Shaking hands, rapid or halting speech, difficulty concentrating, and unsteady balance are all normal physiological responses to that kind of pressure.

Officers are trained to distinguish nervousness from impairment, but the distinction is not always clear—and not every officer makes it correctly. This is one reason why dashcam and bodycam footage can be so important in CDL DWI cases: it allows the defense to see what the officer saw, and to evaluate whether what was observed was genuinely consistent with impairment or with a stressed but sober driver.

THE ROADSIDE INVESTIGATION

4.11 Observations of Driving Behavior

The formal field sobriety tests are only part of what officers document. From the moment they observe the vehicle on the road, they are building a record. The driving behavior that preceded the stop—the lane drift, the speed variation, the turn that was slightly too wide—will appear in the report, described in the language officers are trained to use in DWI investigations.

That language matters. The same event can be described in neutral terms or in terms that suggest impairment, and the phrasing an officer chooses will influence how the evidence is understood by prosecutors, judges, and juries. “Driver drifted within the lane” reads differently than “driver was unable to maintain lane position.” When defense attorneys review police reports, this kind of language is examined closely.

4.12 Speech and Communication

When the officer reaches the driver’s window, the conversation that follows is also part of the investigation. The officer is listening as much as asking. They note whether the driver’s speech is slurred, whether responses are slow or confused, whether the driver has difficulty understanding or answering basic questions.

For CDL drivers, fatigue can produce speech patterns that superficially resemble some indicators of intoxication. A driver who has been behind the wheel for many hours may be slow to respond, may mispronounce words, or may seem slightly disoriented. An officer who does not adequately account for driver fatigue may interpret those signs as evidence of impairment rather than exhaustion. The ability to later establish that the driver had been awake and driving for an extended period can sometimes be relevant context.

4.13 Coordination and Physical Behavior

Before the formal field sobriety tests begin, the officer has already been watching how the driver moves. Getting out of a truck cab is not always graceful under the best of circumstances—it is a longer drop than stepping out of a passenger car, and it requires a certain physical effort. An officer who notes that the driver “had difficulty exiting the vehicle” may be documenting impairment, or may be documenting the ordinary physical challenge of descending from a cab after hours of driving.

Similarly, the act of producing a license and registration—fumbling with a wallet, dropping documents, taking longer than expected to find what the officer asked for—can be documented as a sign of impairment. These are the kinds of small observations that accumulate in the officer’s report and collectively build the narrative that the driver was impaired. Defense attorneys look at each one individually to assess whether the behavior described was genuinely consistent with intoxication or had a more ordinary explanation.

4.14 Eye Movement and Physical Indicators

Even before administering the HGN test formally, officers often note physical indicators visible to the naked eye. Bloodshot or watery eyes are one of the most commonly cited observations in DWI reports. So is the odor of alcohol, which can be detected without any testing device. Flushed or pale skin, unusual pupil size, and general physical demeanor all find their way into reports.

Bloodshot eyes, in particular, are an observation worth noting: they can be caused by alcohol, but also by fatigue, dry air in a truck cab, allergies, contact lenses, and many other conditions entirely unrelated to impairment. An officer who documents “bloodshot and watery eyes” without noting that the driver had been driving for eight hours in a dry climate has produced an incomplete picture. That incompleteness is something a defense attorney can work with.

OFFICER OBSERVATIONS AND POLICE REPORTS

4.15 How Officers Document DWI Investigations

After a DWI arrest, the officer prepares a written report describing everything they observed and everything that occurred from the initial traffic stop through the arrest. These reports are typically prepared the same day, while details are fresh, and they follow a fairly standardized format that reflects the officer’s training.

The report is not a neutral document. It is a record of observations made by an officer who already believed the driver was impaired before they wrote a single word of it. That does not mean the report is dishonest—most officers document what

they genuinely observed—but it does mean it reflects a point of view. Every description of driver behavior in the report is filtered through the lens of an officer who had already formed a suspicion.

4.16 What Police Reports Typically Include

A typical DWI police report covers several categories of information. It begins with the reason for the stop—the specific driving behavior or violation the officer observed. It describes the initial contact with the driver, including observations about speech, odor, eyes, and demeanor. It documents the field sobriety tests in detail, noting each clue the officer observed and the conditions under which the tests were conducted. It records whether chemical testing was offered, whether the driver consented or refused, and the results if testing was conducted. And it describes the arrest itself, including any statements the driver made.

Statements made by the driver receive particular attention. An admission that the driver had been drinking, an estimate of how many drinks they had, a description of where they were coming from—all of these can become important evidence, and all of them appear in the report.

4.17 Why Officer Reports Matter in Court

In DWI cases, the officer's report is often the foundation of the prosecution's case. The prosecutor uses it to understand what happened, to prepare questions for the officer's testimony, and to identify the evidence they will present. Juries hear the officer's account of events as described in the report and elaborated in testimony, and that account carries significant weight.

Defense attorneys scrutinize these reports carefully—not to find technicalities, but to find the truth. Officers are human beings who sometimes make mistakes, document things imprecisely, or omit information that would complicate the narrative of impairment. Inconsistencies between the report and dashcam footage, between the officer’s observations and what can be seen on video, between what was documented and what the driver experienced—these are the raw material of a defense.

In many CDL DWI cases, the report also becomes relevant in administrative proceedings. The CDL licensing consequences discussed earlier in this book depend on the same underlying facts that appear in the criminal case. A police report that contains errors or gaps can be relevant not just in court, but in challenging administrative disqualification as well.

WHY OFFICER REPORTS MATTER SO MUCH

The police report prepared after a DWI arrest is not just a formality. It becomes the backbone of the prosecution’s case, the basis for the officer’s testimony, and often the primary document in administrative licensing proceedings.

Defense attorneys review these reports line by line—comparing them to dashcam and bodycam footage, examining whether protocols were followed, identifying observations that may have innocent explanations, and looking for any discrepancy between what was written and what actually occurred.

Errors in a police report do not automatically win a case, but they create opportunities. And sometimes those opportunities matter enormously.

Closing Thoughts

The traffic stop is the beginning of the case, but it is also where much of the most important evidence is created. The observations an officer makes in the first few minutes of a stop, the field sobriety tests they administer by the side of the road, the report they write afterward—all of it becomes part of the record that will shape everything that follows.

For CDL drivers, every element of that record carries weight. The same observations that might lead to a standard DWI charge for an ordinary driver may also trigger licensing consequences, employer investigations, and federal reporting that an ordinary driver would never face. Understanding what the officer was looking for, how the tests work, and how the report gets written is the first step toward understanding what options are available.

The chapters ahead will address what happens after the arrest: the administrative processes that begin running immediately, the criminal proceedings that follow, and the defenses that an experienced attorney can develop from the evidence collected at that traffic stop.

Frequently Asked Questions

Why was I pulled over if I didn't think I did anything wrong?

Officers need only reasonable suspicion—an articulable reason to believe a traffic violation occurred—to initiate a stop. That is a relatively low threshold, and minor driving behaviors that many drivers would not notice in themselves can be sufficient. The stop itself may be legally valid even if the driver believes it was unwarranted. Whether the stop was lawful is one of the first things a defense attorney evaluates.

Can police stop commercial trucks more easily than regular vehicles?

In some respects, yes. Commercial vehicles can be directed into weigh stations and roadside inspection facilities as part of the commercial vehicle safety regulatory system, without the individualized suspicion required to stop a passenger car. Once a commercial vehicle is lawfully stopped, any signs of impairment the officer observes can justify further investigation. CDL drivers face more lawful contact with law enforcement as a consequence of operating within the commercial regulatory framework.

Do I have to answer questions during a traffic stop?

Drivers must identify themselves and provide a license and registration when asked. Beyond that, you have the right to remain silent. You are not required to answer questions about where you were coming from, where you are going, or whether you have been drinking. Politely asserting that right—without being confrontational—is something an attorney can advise you on in advance. Statements made during a traffic stop often appear prominently in the police report.

Do I have to perform field sobriety tests?

Field sobriety tests are generally voluntary. A driver can decline to perform them, and that refusal alone is not a crime. However, declining does not prevent an arrest if the officer has other grounds to believe the driver is impaired. Whether refusing the tests is strategically wise depends on the specific circumstances, and it is a question worth discussing with a DWI attorney.

Can fatigue affect field sobriety test performance?

Yes, significantly. CDL drivers who have been on the road for many hours may have slowed reaction times, reduced coordination, and difficulty with tasks that require divided attention—all of which can affect field sobriety test performance regardless of alcohol consumption. The conditions under which a driver was operating, including hours behind the wheel, is relevant context that a defense attorney will consider.

What happens if I perform poorly on field sobriety tests?

The officer will document the clues they observed, and those observations will be used to support probable cause for arrest and will appear in the police report. However, a poor performance on field sobriety tests does not automatically determine the outcome of a case. Officers must administer the tests according to precise protocols, and deviations from those protocols can affect the reliability of the results. Conditions, physical factors, and administrative errors are all subject to examination by a defense attorney.

Will the officer write a report about everything that happened?

Yes. After a DWI arrest, the officer prepares a detailed written report covering the reason for the stop, observations during the investigation, field sobriety test results, chemical testing, and any statements made by the driver. That report typically becomes central evidence in both the criminal case and any administrative proceedings affecting the CDL. Defense attorneys review it carefully.

Why are officer observations so important in DWI cases?

In many DWI cases, particularly those where chemical test results are challenged or absent, the officer's documented observations and testimony are the foundation of the prosecution's case. Juries and judges give significant weight to firsthand accounts from trained law enforcement officers. That is why the accuracy of those observations—and any inconsistencies between the report and video evidence—can be so consequential for the defense.

CHAPTER 5

BREATH AND BLOOD TESTING

Of all the evidence presented in a DWI case, none carries more perceived authority than a number.

A BAC reading of 0.07. A blood test result of 0.09. The number is offered as scientific fact—precise, objective, difficult to argue with. Prosecutors know this. Juries know this. And many defendants, when they first see the result from their breath or blood test, feel the same thing: that a number like this settles the matter.

It does not.

Breath and blood testing involves complex science, human judgment, mechanical equipment, laboratory procedures, and a chain of custody that must be maintained without error from the moment of collection to the moment results are presented in court. At any point in that process, mistakes can happen. And when mistakes happen, the number that seems so authoritative may not mean what the prosecution claims it means.

This chapter explains how chemical testing works, where the vulnerabilities lie, and how experienced defense attorneys examine this evidence. It also addresses the timeline of a DWI

case more broadly—because understanding how testing fits into the larger process helps drivers make sense of what they are facing.

5.1 What Happens After a DWI Arrest

The traffic stop and the arrest are where the DWI case begins. The chemical testing that follows is where much of the most critical evidence is created. Understanding the full sequence of events—from the moment the lights come on to the moment the case reaches court—is useful context for everything that follows in this chapter.

TRAFFIC STOP

Officer observes driving behavior or a traffic violation and initiates the stop.



ROADSIDE INVESTIGATION

Officer asks questions, makes observations, and may administer field sobriety tests.



ARREST

Driver is taken into custody based on probable cause that they were driving while intoxicated.





CHEMICAL TESTING REQUEST

Officer requests a breath or blood sample to measure alcohol or drug concentration.



BREATH TEST OR BLOOD DRAW

Driver submits to testing at the station, or a blood warrant is obtained if the driver refuses or if drugs are suspected.



LABORATORY ANALYSIS

If a blood sample was collected, it is sent to a forensic laboratory for analysis—a process that may take days or weeks.



CHARGES FILED

Prosecutors review the available evidence and make decisions about what charges to bring.



COURT PROCEEDINGS

The case moves through the criminal justice system, including pre-trial proceedings, possible plea negotiations, and, if necessary, trial.

The chemical test is one step in this sequence—an important one, but not the final word. Each stage of the process creates evidence, and each stage presents opportunities for the defense to examine what occurred and whether it was done correctly.

BREATH TESTS

5.2 How Breath Testing Machines Work

The science behind breath testing rests on a physiological fact: alcohol that is present in the bloodstream passes through the walls of the alveoli in the lungs and into the air spaces, where it can be detected in exhaled breath. The relationship between the concentration of alcohol in the breath and the concentration in the blood is what breath testing machines exploit.

A breath testing machine measures the amount of alcohol vapor in a breath sample and then applies a mathematical conversion—called the partition ratio—to estimate the blood alcohol concentration. The standard partition ratio assumes that 2,100 milliliters of breath contain the same amount of alcohol as one milliliter of blood. That assumption is built into the machine's calculations.

The problem is that the partition ratio varies from person to person, and in the same person from hour to hour. It is affected by body temperature, lung function, breathing patterns, and other physiological factors. The machine uses a fixed ratio regardless of the individual being tested. For some people, the machine's estimate will be accurate. For others, it may be systematically high or low.

WHY BREATH TESTS DON'T MEASURE BLOOD ALCOHOL DIRECTLY

Breath testing machines do not measure alcohol in the blood. They measure alcohol in breath and then apply a mathematical conversion—the partition ratio—to estimate what the blood alcohol concentration must be.

The standard ratio of 2,100:1 is an average derived from population studies. It does not account for individual variation. For a person whose actual ratio differs from this assumption, the machine's estimate may be higher or lower than their true BAC.

This is one reason experienced defense attorneys do not treat breath test results as certainties. They are estimates, and estimates can be challenged.

5.3 The Intoxilyzer and Other Breath Testing Devices

In Texas, the instrument used for evidentiary breath testing is the Intoxilyzer 9000, operated by the Texas Department of Public Safety. These machines are located at police stations and testing facilities—not at the roadside. Any roadside device an officer uses is a portable breath test, which provides an estimate to help inform the decision to arrest but is not admissible as evidence of the actual BAC in court.

The Intoxilyzer works by passing infrared light through the breath sample and measuring how much light is absorbed by the alcohol molecules present. The amount of absorption correlates to the alcohol concentration, which the machine then converts to an estimated BAC using the partition ratio.

Testing is conducted by a licensed breath test operator who must hold a current certification issued by the Texas DPS. The operator is required to follow a specific testing protocol: observe the driver for a required period before testing, conduct multiple breath samples to ensure consistency, and verify

that the machine is functioning properly. Documentation of the test—including the operator’s certification and the machine’s calibration records—becomes part of the evidentiary record.

5.4 Calibration and Maintenance Issues

A breath testing machine is only as reliable as its last calibration. The Intoxilyzer must be tested regularly against a known alcohol standard—a reference sample of precisely measured concentration—to verify that it is producing accurate results. If the machine’s readings deviate from the reference standard by more than a permitted margin, it must be taken out of service and recalibrated before it can be used again.

These calibration records are public documents, and defense attorneys routinely request them as part of case preparation. A machine with a history of calibration failures, inconsistent readings, or extended periods between required maintenance checks is a machine whose results may be open to challenge. Even a machine that has always calibrated correctly may have malfunctioned on the specific occasion when it was used in a client’s case.

Maintenance records tell a story. A careful defense attorney reads that story.

5.5 Mouth Alcohol and Contamination Problems

One of the most significant sources of potential error in breath testing is a phenomenon called mouth alcohol—alcohol present in the oral cavity that is measured by the machine along with, or instead of, the alcohol coming from the lungs. Because the machine cannot distinguish between the two sources, residual alcohol in the mouth can produce a reading that significantly overstates the driver’s true BAC.

Mouth alcohol can come from several sources. Recent drinking is the obvious one. But alcohol can also be trapped in the mouth as a result of burping or regurgitation, which brings stomach contents—containing alcohol—into the esophagus and oral cavity. Dental appliances, acid reflux conditions, and certain medications can all contribute to residual oral alcohol.

MOUTH ALCOHOL: A COMMON SOURCE OF BREATH TEST ERRORS

When the Intoxilyzer analyzes a breath sample, it cannot tell whether the alcohol it detects came from the lungs—which is what the machine is designed to measure—or from the mouth and throat. Alcohol present in the oral cavity from any source will inflate the reading.

Common causes of mouth alcohol include recent drinking, burping or regurgitation, acid reflux, dental appliances, and certain medications. Even a small amount of residual oral alcohol can meaningfully affect the result.

This is why the observation period before testing exists—and why failures to observe that period properly are significant.

THE 15-MINUTE OBSERVATION RULE

Before administering a breath test, the operator is required to observe the driver continuously for approximately fifteen minutes. During that observation period, the driver must not eat, drink, smoke, vomit, or burp—any of which could introduce substances into the mouth that would affect the test.

The purpose of the observation period is to allow any residual mouth alcohol to dissipate so that the breath sample reflects air from the lungs rather than from the oral cavity.

If the observation period was not conducted, was cut short, or was not truly continuous—if the operator was out of the room, distracted, or simply not watching—the foundational requirement

for a valid test may not have been met. Defense attorneys look carefully at how this observation period was documented.

5.6 Operator Error in Breath Testing

Every step of the breath testing protocol exists for a reason, and departing from it creates the potential for error. The operator must hold a current, valid certification. The observation period must be conducted correctly. The driver must be instructed properly on how to provide the sample. The machine's function must be verified before and after the test. The results must be accurately recorded.

In practice, these requirements are not always followed perfectly. Officers are busy, processing multiple arrests in a single shift. The documentation may be incomplete. The observation may have been interrupted. The certification may have lapsed. A test administered by an improperly certified operator, or conducted without a proper observation period, may not be admissible in court—or may at minimum be subject to serious challenge regarding its reliability.

These are not technicalities in the pejorative sense. They are the safeguards the legal system has established to ensure that the evidence produced by breath testing is actually reliable. When those safeguards are bypassed, the reliability of the result is genuinely in question.

BLOOD WARRANTS

5.7 When Police Seek Blood Test Warrants

Breath testing is the default chemical testing method in most Texas DWI cases. But there are situations where officers

turn to blood testing instead—and understanding when and why matters for any CDL driver navigating this process.

Blood testing is used when the driver refuses the breath test and the officer wants to preserve the evidentiary option. It is also used when drug impairment is suspected—either instead of or in addition to alcohol—because breath testing cannot detect drugs. In cases involving serious accidents, injury, or death, blood testing is often preferred because the stakes demand a more precise and more defensible form of evidence. And in situations where breath testing equipment is unavailable or has malfunctioned, blood testing provides an alternative.

To obtain a blood sample without the driver’s consent, officers must generally obtain a search warrant signed by a judge. Texas law permits no-refusal enforcement periods and no-refusal weekends, during which judges are available around the clock to sign blood warrants—which means the practical barrier to obtaining a warrant is lower than many drivers assume.

5.8 Forced Blood Draws

When a warrant is issued, the driver’s refusal to submit to blood testing is no longer legally effective. Officers may proceed with the blood draw over the driver’s objection.

In practice, the blood draw is conducted by a medical professional—typically a phlebotomist, nurse, or physician—at a hospital, emergency room, or medical facility. The driver is transported there for the procedure. The blood is drawn using a sterile kit that includes a vial containing a preservative and an anticoagulant, which are designed to prevent fermentation and clotting respectively.

The entire process is documented: the warrant, the time and location of the draw, the identity of the medical professional who performed it, the identification numbers on the collection kit, and the method of packaging and transportation to the laboratory. Every one of these documented steps is part of the chain of custody that defense attorneys will review.

WHAT HAPPENS DURING A FORCED BLOOD DRAW?

When a blood warrant has been issued:

1. The driver is transported to a hospital, clinic, or other medical facility.
2. A licensed medical professional—typically a phlebotomist or nurse—performs the blood draw using a sterile evidence kit.
3. The vial is sealed, labeled, and packaged for transport to the laboratory.
4. Documentation records who collected the sample, when, and under what conditions.

The warrant authorizes the draw even over the driver's objection. However, the validity of the warrant itself—including whether it was based on sufficient probable cause and properly issued—is subject to challenge by a defense attorney.

5.9 Chain of Custody for Blood Evidence

From the moment a blood sample is collected to the moment it is analyzed in a laboratory and the results are presented in court, every person who handles it must be documented. This is what lawyers and scientists mean when they talk about the chain of custody.

The chain of custody serves a critical function: it allows anyone reviewing the evidence to verify that the sample tested

was the same sample collected from the driver, that it was not mixed up with another sample, and that it was stored and transported under conditions that preserved its integrity. If the chain of custody has gaps—if there are periods when the sample was unaccounted for, or if the documentation is inconsistent or incomplete—questions arise about whether the sample was altered, contaminated, or mislabeled.

These are not hypothetical concerns. Laboratories process large numbers of samples. Clerical errors happen. Mislabeled happens. Improper storage happens. A defense attorney who examines the chain of custody documentation in detail is doing something important: verifying that the evidence connecting the test result to the specific driver actually holds together.

THE CHAIN OF CUSTODY FOR BLOOD EVIDENCE

The chain of custody documents the complete history of a blood sample from collection through analysis:

- Who collected the sample, when, and where
- How the sample was packaged and labeled
- Who transported it and how
- Where it was stored and under what conditions
- Who received it at the laboratory
- Who analyzed it and what procedures were used

Any gap or inconsistency in this documentation raises the question of whether the sample that was tested was actually the one collected from the driver—and whether anything happened to it in between.

LAB TESTING ISSUES

5.10 How Blood Samples Are Tested in the Laboratory

After a blood sample arrives at the forensic laboratory, it undergoes analysis using a technique called gas chromatography—a method that separates the chemical components of a sample and measures their concentrations individually. Gas chromatography is considered a reliable and well-validated analytical technique, and its results carry significant weight in court.

The process involves several steps: preparing the sample, running it through the chromatograph, identifying the alcohol peak in the resulting data, and calculating the concentration. Each of these steps requires trained personnel, properly calibrated equipment, and adherence to established protocols. The results are then reviewed, documented, and reported.

The reliability of any individual test result depends on how faithfully all of these steps were followed in that particular case. A technique that is sound in principle can produce unreliable results in practice when equipment is poorly maintained, protocols are not followed, or personnel make errors.

HOW BLOOD SAMPLES ARE TESTED IN THE LAB

Laboratory analysis of a blood sample typically proceeds through the following steps:

1. The sample is logged into the laboratory's evidence system and assigned an identification number.
2. A small portion of the sample is prepared for analysis.
3. The prepared sample is run through a gas chromatograph, which separates the chemical components and measures their concentrations.

4. The analyst identifies the alcohol peak in the chromatographic data and calculates the BAC.
5. The result is reviewed, documented, and reported.

Each of these steps must be performed correctly, using calibrated equipment and validated procedures, for the result to be considered reliable.

5.11 Sample Contamination

Blood samples can be contaminated at multiple points in the process. The most obvious opportunity is during collection: if the skin is not properly cleaned before the needle is inserted, or if the wrong antiseptic is used, foreign substances can be introduced into the sample. Some antiseptics contain alcohol-based compounds that, if they enter the vial, can produce artificially elevated readings.

Contamination can also occur during laboratory preparation. If equipment is not properly cleaned between samples, residue from a previous analysis can affect the results of the next one. The validation protocols that good laboratories follow are designed to catch these errors, but they are not infallible.

5.12 Fermentation in Blood Samples

Blood is a biological substance, and biological substances are subject to fermentation—the process by which microorganisms convert sugars into alcohol. If the conditions are right, a blood sample that contains no alcohol from drinking can develop measurable alcohol concentration through fermentation after it is collected.

To prevent fermentation, blood collection kits used in DWI cases include two additives: sodium fluoride, which is a preservative that inhibits bacterial growth, and potassium oxalate,

which is an anticoagulant that prevents clotting. These additives must be present in adequate quantities and properly mixed with the blood sample—which is why the collection vial is supposed to be inverted several times after the draw.

If the preservative is absent, degraded, or in insufficient quantity—or if the sample is stored at elevated temperatures for an extended period—fermentation can occur. The result is a BAC reading that reflects not only the alcohol the driver consumed but also the alcohol produced by biological processes in the sample itself.

5.13 Improper Storage and Handling

Blood samples must be refrigerated promptly after collection and maintained at appropriate temperatures throughout the chain of custody. Heat accelerates both fermentation and the general degradation of biological samples. A sample that sits in the back of a patrol car, or in an evidence room without proper refrigeration, for hours or days before reaching the laboratory may not be in the same condition it was in when it was drawn.

Delays in testing create additional opportunities for degradation. Laboratories have backlogs, and samples sometimes wait longer than they should before being analyzed. Documentation of when a sample was collected, when it arrived at the laboratory, when it was refrigerated, and when it was analyzed allows these potential issues to be evaluated.

5.14 Laboratory Testing Errors

Even in well-run laboratories following sound protocols, human error occurs. Samples can be mislabeled, switched, or confused with one another—particularly when a laboratory

is processing many samples simultaneously. Equipment can malfunction in ways that are not immediately apparent. Calculations can be made incorrectly. Results can be transcribed with errors.

Quality forensic laboratories have internal review procedures designed to catch these errors before results are reported. But those procedures are not perfect, and they are not always followed. When a defense attorney requests the laboratory's complete file on a case—the raw analytical data, the equipment logs, the analyst's notes, the quality control records—they are looking for exactly these kinds of issues.

SCIENTIFIC DEFENSES

5.15 Challenging the Reliability of BAC Results

The list of potential issues with chemical testing is not a catalog of exotic or unlikely events. These are recognized vulnerabilities in the science, documented in peer-reviewed literature, and acknowledged even by the proponents of breath and blood testing. Their existence does not mean that every BAC result is wrong—most are not. But it does mean that the question of whether a particular result is reliable in a particular case requires examination, not assumption.

POTENTIAL PROBLEMS WITH CHEMICAL TESTING

Calibration and Maintenance

Breath testing machines must be regularly calibrated against known standards. A machine with a history of calibration failures or gaps in maintenance records produces results that can be challenged.

Mouth Alcohol Contamination

Alcohol present in the oral cavity from burping, acid reflux, dental appliances, or recent drinking can inflate a breath test reading significantly beyond the true BAC.

Observation Period Failures

If the required pre-test observation period was not properly conducted, the foundation for a valid breath test result may be absent.

Rising BAC

If the test was administered after a period during which the driver's BAC was still rising, the result may be higher than the BAC at the time of driving.

Chain of Custody Gaps

Incomplete or inconsistent documentation of who handled a blood sample, and under what conditions, raises questions about whether the sample tested was the one collected.

Fermentation

A blood sample stored improperly or without adequate preservative may develop alcohol through fermentation, artificially inflating the measured concentration.

Contamination

Foreign substances introduced during collection or laboratory preparation can affect the analysis.

Laboratory Error

Mislabeled, equipment malfunction, calculation errors, and procedural deviations can all affect the accuracy of a reported result.

An experienced DWI defense attorney does not approach a BAC result as settled science. They approach it as a number produced by a process—a process that can be examined, and sometimes found wanting.

5.16 The Timing of the Test

Perhaps the most conceptually important scientific defense in breath and blood testing cases involves the timing of the test relative to the time of driving. As discussed in Chapter 3, alcohol is not absorbed instantaneously. After a person stops drinking, their BAC continues to rise as the alcohol in the stomach and intestines continues to be absorbed into the bloodstream. That absorption process can take between thirty minutes and ninety minutes, depending on the individual and the circumstances.

What this means is that a driver who was at the wheel thirty or forty minutes before the test may have had a meaningfully lower BAC while driving than the test result indicates. The test is taken at a point in time when the driver's BAC may still have been climbing. The number reflects the BAC at the time of testing—not necessarily the BAC at the time the officer observed the driver.

HOW RISING BAC CAN AFFECT TEST RESULTS

Alcohol continues to be absorbed into the bloodstream after drinking stops, typically for thirty to ninety minutes. During this absorption phase, BAC is still rising.

If a driver was stopped and arrested during this phase—and the chemical test was not administered until some time after the arrest—the result may reflect a higher BAC than existed at the time of driving.

This “rising BAC” concept is one of the recognized scientific defenses in DWI cases. It does not apply in every situation, but it is an argument that a toxicology expert can evaluate based on the specific timing facts in a case.

The rising BAC defense requires a forensic toxicologist to work backward from the test result and the timing of drinking

to reconstruct what the BAC likely was at the time of the traffic stop. It is not a simple argument, and it requires expert support. But in the right case, it can be decisive.

5.17 Challenging Laboratory Procedures

When the chemical evidence in a case is a blood test result, the defense's examination does not stop at the collection kit. It extends into the laboratory—its certification, its internal protocols, the specific analyst who processed the sample, the equipment logs for the chromatograph used, the quality control records for the run in which the sample was analyzed, and the raw analytical data from which the reported result was derived.

Laboratories are required to maintain this documentation, and defendants' attorneys are entitled to request it. The process of reviewing it is sometimes called an independent scientific review of the evidence, and it can be conducted by a retained forensic toxicologist. If the laboratory's procedures deviated from accepted standards, if the equipment was not properly calibrated, or if the documentation raises questions that the laboratory cannot answer, those issues can be brought before the court.

This kind of review is expensive and time-consuming—but so is a CDL disqualification. For a driver whose livelihood depends on the outcome of the case, it is often a worthwhile investment.

5.18 The Role of Forensic Toxicologists

Forensic toxicology is the scientific discipline that sits at the intersection of chemistry, biology, and the law. Forensic toxicologists study how alcohol and drugs affect the human body, how those substances are metabolized over time, and

how laboratory techniques should properly be used to measure their presence.

In DWI cases, forensic toxicologists serve two different roles. When retained by the prosecution, they may testify about the meaning of a BAC result—explaining to the jury what a given number indicates about the driver’s level of impairment at the time of driving. When retained by the defense, they review the evidence from a different perspective: examining whether the testing was properly conducted, whether the result is scientifically reliable, and whether alternative explanations—rising BAC, fermentation, contamination, variability in the partition ratio—are applicable to the specific facts of the case.

An independent toxicologist retained by the defense does not simply attack the prosecution’s result. They conduct a scientific evaluation of the evidence and offer an expert opinion about what it does and does not reliably show. In cases where the chemical evidence is the cornerstone of the prosecution’s case, that opinion can be one of the most valuable tools available to the defense.

WHAT FORENSIC TOXICOLOGISTS DO IN DWI CASES

A forensic toxicologist is a scientist who specializes in how alcohol and drugs affect the body and how they are detected through chemical testing. In DWI cases, they may:

- Review laboratory procedures and documentation to assess whether protocols were properly followed
- Evaluate the chain of custody for blood evidence
- Analyze the raw analytical data from gas chromatography testing
- Apply retrograde extrapolation to estimate BAC at the time of driving

- Assess whether rising BAC, fermentation, contamination, or other factors could explain or affect the reported result
- Testify as an expert witness about the limitations of the chemical evidence

Defense attorneys in serious CDL DWI cases often work with forensic toxicologists to subject the prosecution's chemical evidence to the same scrutiny the prosecution applied to the driver.

Closing Thoughts

The central message of this chapter is not that chemical tests are useless or routinely wrong. They are, in the aggregate, reasonably reliable tools for estimating alcohol concentration. But aggregate reliability is not the same as certainty in any individual case. And for a CDL driver facing a DWI charge—where the consequences extend beyond a criminal penalty to the loss of a professional license and a career—the difference between a reliable result and an unreliable one is everything.

The breath test or blood test result in your case is a starting point for the defense, not an ending point. It is a number produced by a process, and that process can be examined. A defense attorney who understands the science will examine it.

The next chapter addresses what happens to the CDL specifically after a DWI arrest—the disqualification timelines, the administrative processes, and what options may be available to protect the license that defines your working life.

Frequently Asked Questions

What happens after I'm arrested for DWI?

After the arrest, the officer will request a breath or blood sample to measure alcohol or drug concentration. The breath

test, if taken, is administered at the police station using certified equipment. If a blood sample is collected, it is packaged and sent to a forensic laboratory for analysis. Results from blood testing may not be available for days or weeks. Meanwhile, the administrative process affecting your CDL begins running on its own timeline, separately from the criminal case.

What is the difference between a breath test and a blood test?

A breath test estimates blood alcohol concentration by measuring alcohol vapor in an exhaled breath sample and applying a mathematical conversion. It provides results quickly but cannot detect drugs. A blood test measures alcohol or drugs directly in the bloodstream through laboratory analysis. It is more precise, can detect a broader range of substances, and takes longer to produce results. Both types of evidence can be challenged, though the nature of the challenge differs.

Do I have to take a breath or blood test?

You can refuse, but refusal triggers automatic administrative consequences under Texas implied consent law, including license suspension. For CDL drivers, a refusal can also trigger CDL disqualification under federal regulations. Additionally, if you refuse and officers obtain a blood warrant—which they may do fairly quickly in many Texas jurisdictions—they can proceed with a blood draw over your objection. Whether refusal is strategically wise in a given case is a question for an experienced DWI attorney.

Can police force me to give a blood sample?

Yes, if they obtain a search warrant. Texas law allows officers to seek blood warrants when a driver refuses testing, when drug

impairment is suspected, or when a DWI involves injury or death. Texas also has no-refusal enforcement periods during which judges are available around the clock to sign these warrants. The availability of warrant-based blood draws has significantly reduced the practical protection that refusal once offered.

How accurate are breath testing machines?

Breath testing machines are reasonably accurate when properly maintained, correctly calibrated, and operated by a certified technician who follows all required protocols. When any of these conditions is not met, accuracy can be compromised. Additional factors—including individual variation in the partition ratio and the presence of mouth alcohol—can affect results independent of the machine's mechanical condition. A defense attorney evaluates all of these factors when reviewing breath test evidence.

What is the chain of custody?

The chain of custody is the documented history of a piece of evidence—in this case, a blood sample—from the moment it is collected to the moment it is presented in court. It records who handled the sample, when, and under what conditions at every step. Gaps or inconsistencies in the chain of custody raise questions about whether the sample was properly preserved and whether the tested sample was the one actually collected from the driver.

Can a blood test produce inaccurate results?

Yes, in several ways. Contamination during collection can introduce foreign substances. Inadequate preservatives or improper storage can allow fermentation to occur, producing

alcohol where none—or less—existed in the original sample. Laboratory errors—mislabeling, equipment malfunction, procedural deviations—can affect the analysis. A forensic toxicologist retained by the defense can review the laboratory’s documentation to assess whether any of these issues affected the reported result.

Why does the timing of the test matter?

Because alcohol absorption is not instantaneous. BAC continues to rise after a person stops drinking, typically for thirty to ninety minutes. If a driver was stopped during this absorption phase, their BAC at the time of driving may have been meaningfully lower than their BAC at the time the test was administered. A forensic toxicologist can analyze the timing of drinking relative to the time of driving and testing to assess whether this “rising BAC” factor applies to a given case.

CHAPTER 6

THE TWO LEGAL BATTLES

After a DWI arrest, the questions usually arrive in a rush.

Will I lose my CDL? Can I still work tomorrow? How much time do I have? What do I do right now?

The most disorienting discovery for many CDL drivers is that there is not one answer to those questions—there are two sets of answers, running on two different tracks at the same time. A DWI arrest in Texas does not create one legal problem. It creates two, and they operate independently of each other.

Understanding this two-track structure is the foundation for everything that comes next. The decisions made in the first hours and days after an arrest can shape both cases. Missing one deadline—or focusing exclusively on one case while neglecting the other—can produce consequences that a better-informed approach might have avoided.

6.1 Why a DWI Arrest Creates Two Separate Cases

Most people think of the legal system as a single institution that handles cases from arrest to resolution. For most criminal matters, that is roughly accurate. For DWI cases in Texas, it is not.

A DWI arrest initiates two parallel proceedings that are handled by different agencies, governed by different legal standards, and capable of producing different outcomes. The first is a criminal case in the Texas court system, prosecuted by a district or county attorney. The second is an administrative licensing proceeding managed by the Texas Department of Public Safety. Both begin at or near the moment of arrest. Neither waits for the other.

For an ordinary driver, the administrative case might be an inconvenience—a license suspension to navigate around. For a CDL driver, it can mean the immediate loss of the professional credential on which their livelihood depends. That asymmetry is why this chapter matters so much.

DWI ARREST



CRIMINAL CASE

Handled in criminal court by prosecutors and judges

Possible outcomes:

- Dismissal of charges
- Reduction to lesser offense
- Conviction
- Probation or community supervision
- Jail or fines



ALR PROCESS (LICENSE)

Handled by Texas Dept. of Public Safety, separately from court

Possible outcomes:

- License suspension
- Delayed suspension pending hearing
- CDL disqualification
- License reinstatement

Key point: These two processes run simultaneously and independently. Winning the criminal case does not automatically resolve the license case. Both must be addressed.

THE CRIMINAL CASE

6.2 The Criminal DWI Charge

The criminal case is the proceeding most drivers expect and most understand. After an arrest, the officer's reports and evidence are reviewed by a prosecutor—a district attorney or county attorney depending on where the arrest occurred. The prosecutor decides whether to file a formal criminal charge, and if so, what charge to file.

In Texas, a first-offense DWI is typically charged as a Class B misdemeanor, which carries a potential penalty of up to 180 days in jail and a fine of up to \$2,000. Certain aggravating circumstances elevate the charge: a BAC of 0.15 or higher at the time of testing results in a Class A misdemeanor with steeper penalties; a DWI involving a child passenger is a felony; and a third DWI offense is also a felony. For CDL drivers, the criminal classification matters not just for the criminal penalties but because higher-level offenses can have more severe consequences for CDL disqualification.

The criminal case then moves through the court system: arraignment, pre-trial hearings and motions, possible plea negotiations, and, if the case does not resolve beforehand, trial. Each of these stages involves its own deadlines and strategic decisions, and an experienced defense attorney navigates all of them.

6.3 Possible Outcomes in the Criminal Case

Criminal cases do not always end in conviction, and conviction does not always mean the worst possible outcome. The range of potential resolutions is broader than many drivers assume.

A dismissal is the best possible outcome—the charges are dropped entirely, typically because evidence problems, constitutional violations, or procedural errors make the prosecution’s case untenable. Dismissals are not common, but they are not rare either. An experienced attorney looks for grounds to seek dismissal from the moment they review the case.

A charge reduction involves the prosecutor agreeing to amend the DWI to a lesser offense—sometimes a traffic violation, sometimes a different misdemeanor. These reductions are not always available, and their availability depends on the specific facts of the case, the county, and the prosecutor. But they represent a meaningful outcome for drivers whose primary concern is protecting their CDL, because the CDL consequences attached to a DWI conviction may not attach to a lesser offense.

Conviction after trial or by plea carries criminal penalties that vary depending on the specific charge and the defendant’s history. For first-time offenders, probation is common. Probation—formally called community supervision in Texas—typically involves reporting requirements, fines, mandatory alcohol education, possible ignition interlock installation, and community service hours. Jail time is possible even on a first offense and becomes increasingly likely with prior convictions.

For CDL drivers, the single most important question about any criminal outcome is what it means for the CDL—and that question, as we will discuss, is not always answered by the criminal case alone.

6.4 How Evidence Is Examined in Criminal Court

The criminal case is where the evidence from the traffic stop and investigation is most thoroughly examined. Defense

attorneys can challenge the legality of the stop, the propriety of the arrest, the admissibility of chemical test results, the reliability of field sobriety test administration, and the credibility of officer testimony.

Many of the scientific and procedural issues discussed in Chapter 5—breath test calibration, chain of custody for blood samples, operator error, rising BAC—are raised and argued in the criminal proceeding. A successful challenge to key evidence can result in suppression—meaning the evidence is excluded from trial—which can significantly weaken or collapse the prosecution’s case.

The criminal case is also where discovery occurs: the defense attorney’s right to obtain the prosecution’s evidence, including police reports, test results, dashcam and bodycam footage, and laboratory records. Reviewing that evidence carefully is how a defense attorney identifies the strongest arguments available.

ADMINISTRATIVE LICENSE REVOCATION (ALR)

6.5 What the ALR Process Is

The Administrative License Revocation process is Texas’s mechanism for suspending a driver’s license outside of criminal court. It is an administrative—not criminal—proceeding, which means it operates under different rules, uses different legal standards, and is handled by different personnel than the criminal case.

The ALR process is triggered when a driver either fails a chemical test (BAC of 0.08 or higher, or 0.04 for CDL holders operating a commercial vehicle) or refuses to submit to testing.

In either case, the officer confiscates the driver's license and issues a temporary driving permit—typically on yellow paper—along with paperwork notifying the driver of the proposed suspension and their right to request a hearing.

That yellow permit, and the paperwork that comes with it, contains information that is easy to overlook in the stress and confusion of an arrest. It is also where the 15-day deadline appears.

6.6 Why ALR Happens Quickly After an Arrest

The criminal case—arraignment, motions, trial—unfolds over months. The ALR process operates on a much shorter clock. The Texas Department of Public Safety does not wait for the criminal case to be resolved. Once notified of a failed test or a refusal, it moves forward with the suspension process independently.

This speed catches many drivers off guard. They assume they have time to sort things out—that nothing will happen until their court date. By the time they learn otherwise, the 15-day window for requesting a hearing may have closed.

THE 15-DAY DEADLINE THAT CAN AFFECT YOUR LICENSE

After a DWI arrest in Texas, drivers typically have 15 days from the date of arrest to request an ALR hearing.

If the hearing is not requested within that window:

- The proposed license suspension proceeds automatically
- The opportunity to challenge the suspension in a hearing is lost
- For CDL drivers, this can mean an immediate inability to operate a commercial vehicle

Many drivers do not discover this deadline until it has already passed. Contacting an attorney within the first day or two of an arrest is the most reliable way to ensure it is not missed.

6.7 The 15-Day Deadline to Request a Hearing

The 15-day deadline is one of the most consequential deadlines in a Texas DWI case—and one of the most frequently missed. Requesting an ALR hearing within that window accomplishes two things. First, it preserves the driver’s right to contest the suspension before an administrative law judge. Second, it typically delays the start of the suspension until after the hearing is held, which can extend the driver’s ability to drive legally by weeks or months.

If the deadline passes without a hearing request, the suspension takes effect automatically on a predetermined date. There is no extension, no grace period, and no judicial discretion. The window is 15 days, and it closes precisely on schedule.

For a CDL driver, missing this deadline is not just an inconvenience. It can mean losing the ability to operate a commercial vehicle during a period when the criminal case is still pending—a period during which the driver might otherwise have continued working and earning.

6.8 What Happens at an ALR Hearing

An ALR hearing is a civil administrative proceeding conducted before a State Office of Administrative Hearings judge. It is not a criminal trial. The driver is not being judged for whether they committed a crime. The hearing addresses a narrower set of questions: whether the officer had reasonable suspicion to stop the vehicle, whether there was probable cause for the arrest, and whether the driver failed or refused a chemical test.

The standard of proof in an ALR hearing is lower than in a criminal case. The state does not need to prove the case beyond a reasonable doubt—it needs to establish certain facts

by a preponderance of the evidence. That said, the hearing is still a legal proceeding with rules of evidence and argument, and having an attorney present makes a meaningful difference.

One of the strategic values of the ALR hearing is that the arresting officer may be required to testify, under oath, about the details of the stop and arrest. That testimony creates a record that can be used in the criminal case. An attorney who handles both the ALR hearing and the criminal defense can use the information obtained in the hearing to prepare more effectively for court.

WHAT HAPPENS AT AN ALR HEARING?

An ALR hearing is an administrative proceeding before a State Office of Administrative Hearings judge. It focuses exclusively on license suspension—not criminal guilt.

The judge considers whether:

- The officer had reasonable suspicion to initiate the stop
- There was probable cause for the arrest
- The driver failed or refused a chemical test

The hearing may involve officer testimony, review of police reports, and legal arguments from attorneys. A successful challenge results in the proposed suspension being dismissed. Beyond the license issue, the hearing provides valuable information that a skilled attorney can use in the criminal case.

CDL DISQUALIFICATION

6.9 How CDL Disqualification Is Triggered

The criminal case and the ALR hearing are the two proceedings most drivers know about. But for CDL holders, there is a third dimension: the federal commercial driver licensing

framework, which operates on its own timeline and according to its own rules.

Federal regulations require CDL disqualification when a driver is convicted of certain offenses—including DWI—regardless of whether the driver was operating a commercial vehicle at the time. The disqualification is mandatory and is tied to the conviction, not to the license suspension proceedings in the ALR case. This means a driver whose ALR case is resolved favorably, and who retains their regular driver’s license, may still face CDL disqualification as a consequence of a criminal conviction.

The disqualification process is administered through the Texas Department of Public Safety, which is responsible for commercial driver licensing in Texas. When a conviction is reported—which happens through the court system automatically—DPS imposes the required disqualification under the applicable federal standards.

6.10 Who Decides CDL Disqualification?

The answer, somewhat frustratingly, is: several different entities, each contributing a piece.

WHO DECIDES CDL DISQUALIFICATION?

CDL disqualification is not decided in one place. Several entities play a role:

Texas Department of Public Safety (DPS)

DPS manages commercial driver licensing in Texas. It administers the ALR process and imposes CDL disqualification when triggered by a conviction or refusal under federal standards.

Federal CDL Regulations (FMCSA)

The Federal Motor Carrier Safety Administration establishes the minimum disqualification standards that all states must apply. These rules determine which offenses trigger disqualification and for how long.

Criminal Courts

A conviction in criminal court triggers the mandatory CDL disqualification process. The court does not decide the disqualification directly, but the conviction it enters sets it in motion.

Employers

Trucking companies have their own policies and may take action—suspension, reassignment, or termination— independently of any legal proceeding and often before any case is resolved.

This multi-entity structure is why CDL DWI cases feel more complicated than ordinary DWI cases. Decisions made in one system ripple into others.

6.11 The Common Misconception:

“If I Win the Criminal Case, My CDL Is Safe”

A driver is arrested on a Thursday night. By Monday morning, his carrier has suspended him from driving duties pending review. His attorney negotiates a favorable resolution in the criminal case—the charge is amended to a lesser offense and dismissed under a deferred adjudication agreement.

The driver’s attorney calls with what seems like good news. The criminal case is resolved. No conviction.

But the ALR suspension from the refusal is still in effect. And his employer’s safety policy, triggered by the arrest

itself—not the conviction—has not changed. He has not driven commercially in three months.

He assumed the criminal outcome would fix everything. It did not.

This scenario plays out more often than it should, and it almost always traces back to the same misconception: that the criminal case and the license case are the same case.

They are not. The criminal charge is evaluated by a criminal court under the Texas Penal Code. The ALR suspension is evaluated by an administrative law judge under Texas transportation statutes. The CDL disqualification is governed by federal regulations administered through DPS. And the employer’s response is governed by company policy. Each system applies its own rules, and a favorable outcome in one does not automatically produce a favorable outcome in another.

A driver who wins their criminal case has avoided the criminal penalties—fines, probation, a conviction on their record. That is significant and worth fighting for. But the license and the CDL may still be at risk through processes that the criminal case outcome does not control.

WHY SOME DRIVERS WIN IN COURT BUT STILL LOSE THEIR LICENSE

The criminal case and the administrative license case operate under different legal standards and are decided by different entities.

A driver can be acquitted of DWI in criminal court—or have the charge dismissed—and still face an ALR suspension, because the ALR proceeding does not require a criminal conviction. It requires only that the officer had probable cause for the arrest and that the driver failed or refused a test.

Similarly, a criminal conviction triggers CDL disqualification regardless of what happened in the ALR proceeding.

The only way to protect against consequences in both tracks is to defend both tracks actively.

6.12 Why CDL Drivers Must Defend Both Cases

For an ordinary driver, a DWI arrest is serious but relatively contained: fight the criminal case, deal with the ALR, and move on. For a CDL driver, the stakes in every part of the process are higher, the systems involved are more numerous, and the consequences of inaction in any one of them can be immediately career-ending.

The criminal case determines whether there is a conviction—and a conviction is what triggers mandatory CDL disqualification. The ALR case determines whether the driver keeps their license while the criminal case proceeds—and for a commercial driver, that is the difference between working and not working during the months before anything is resolved in court. The CDL disqualification process runs on its own federal timeline and requires its own attention.

None of these processes is optional for a CDL driver who wants to protect their career. Focusing on one while neglecting the others is a strategy that consistently produces bad outcomes.

WHAT CDL DRIVERS SHOULD DO IMMEDIATELY AFTER AN ARREST

Write down everything you remember

Include where the stop occurred, what the officer said, what tests were administered, and the sequence of events. Memory fades quickly, and details that seem minor may matter later.

Keep all paperwork from the arrest

The citation, the yellow temporary driving permit, and any other documents from the arrest contain critical information about deadlines and your driving status. Do not discard them.

Note the date of your arrest immediately

The 15-day ALR hearing deadline runs from the date of arrest. Knowing that date precisely is the first step to ensuring the deadline is not missed.

Contact a DWI attorney as soon as possible

The earlier an attorney is involved, the more options are available. The 15-day deadline can be met only if an attorney knows about the case in time to act. Do not wait to see what happens.

Do not discuss the case on social media or with co-workers

Statements made publicly or casually can become evidence. Until you have spoken with an attorney, say nothing about the arrest beyond what is legally required.

Keep records related to your employment

Document any communications from your employer about the arrest, any changes to your assignment or duties, and any company policies you have been given. These records may be relevant to your case or to future employment decisions.

Closing Thoughts

The two-track structure of a DWI case is one of the most important things a CDL driver can understand after an arrest. It explains why the questions—Will I lose my CDL? Can I still work? What do I do right now?—do not have simple answers. They are being answered in multiple places simultaneously, and what happens in each place depends partly on what the others do.

The 15-day ALR deadline is the most urgent immediate concern. After that comes the criminal case, with its own timeline and its own strategic demands. Running through both is the CDL disqualification framework, which responds to

what happens in the criminal case but cannot be addressed there directly.

This complexity is exactly why early legal guidance matters so much. An attorney who understands all three systems—and who begins working on all three immediately—gives a CDL driver the best available chance of preserving what they have built.

The next chapter addresses CDL disqualification in detail: the specific timelines, what triggers them, and what options may exist.

Frequently Asked Questions

Why do I face two legal cases after a DWI arrest?

Texas law creates two separate proceedings after a DWI arrest. The criminal case, handled in court, addresses whether you committed a crime and what criminal penalties apply. The Administrative License Revocation process, handled by the Texas Department of Public Safety, addresses whether your driver's license will be suspended. These are parallel proceedings governed by different rules. They run simultaneously and can produce different outcomes.

What is the Administrative License Revocation process?

ALR is the state's administrative mechanism for suspending a driver's license after a DWI arrest, separate from the criminal case. It is triggered by either a failed chemical test or a refusal to test. An administrative law judge—not a criminal court judge—presides over ALR hearings. The focus is on whether the stop, arrest, and testing complied with the law, not on whether the driver is guilty of DWI.

What is the 15-day deadline, and what happens if I miss it?

Within 15 days of your arrest, you must request an ALR hearing to contest the proposed license suspension. If you request the hearing in time, the suspension is typically delayed until after the hearing is held. If you miss the deadline, the suspension takes effect automatically on the scheduled date, and there is no mechanism to undo that. For CDL drivers, this can mean losing the ability to drive commercially before the criminal case has even begun in earnest.

What happens if I win the criminal case?

Winning the criminal case is genuinely valuable—it means no criminal conviction, no criminal record, and no conviction-based CDL disqualification. But it does not automatically resolve the ALR proceeding. If a license suspension was imposed through the ALR process and you did not challenge it in time, that suspension may remain in effect despite the criminal outcome. The two cases are separate, and they must both be defended.

Can I drive while waiting for the ALR hearing?

If you request an ALR hearing within the 15-day window, the yellow temporary permit issued at the time of arrest remains valid until the hearing is scheduled and decided. This means timely requesting the hearing not only preserves your right to challenge the suspension—it extends your current driving authorization while the process plays out. If you missed the deadline, your driving authorization ends when the scheduled suspension date arrives.

Does the ALR hearing decide whether I'm guilty of DWI?

No. The ALR hearing is entirely separate from the criminal case and does not determine guilt or innocence. It addresses only whether the proposed license suspension is supported by the evidence—specifically, whether the officer had legal justification for the stop and arrest, and whether the driver failed or refused a lawful chemical test. The criminal verdict has no direct effect on the ALR outcome, and vice versa.

Will CDL drivers face different consequences than regular drivers?

Yes, significantly. In addition to the criminal case and the ALR process, CDL drivers are subject to federal commercial driver licensing regulations that impose mandatory disqualification from commercial driving for certain convictions. These federal standards apply regardless of the vehicle being driven at the time of the offense and regardless of what happened in the ALR proceeding. For CDL drivers, the consequences of a DWI arrest are broader and more severe than for ordinary motorists.

Why should I care about both cases if I plan to fight the criminal charge?

Because a favorable criminal outcome does not protect your CDL license automatically. The ALR suspension runs on its own timeline and requires its own challenge. While you are fighting the criminal case—which can take months—your license may already be suspended if the ALR proceeding was not addressed promptly. And your employer may have taken action independently of both cases. Defending the criminal charge is essential, but it is not the whole picture for a CDL driver.

PART III

The Career Consequences

CHAPTER 7

CDL DISQUALIFICATION RULES

Of all the questions a CDL driver asks after a DWI arrest, the one that comes most urgently is usually the most concrete: How long could I lose my CDL?

It is a practical question with a practical answer—one that matters immediately, because for most commercial drivers, the CDL and the income are the same thing. Lose the license and you lose the ability to work. Understanding exactly what the federal rules say, and when they apply, is essential context for everything else that follows.

This chapter sets out the federal CDL disqualification framework in plain terms: what triggers disqualification, how long it lasts, what happens for repeat violations, and when the consequences become permanent. It also addresses hazardous materials endorsements, which carry their own stricter standards, and explains how the consequences for CDL drivers compare to those faced by ordinary motorists.

7.1 Why CDL Drivers Face Stricter Penalties

The Federal Motor Carrier Safety Administration—the FMCSA—establishes minimum disqualification standards that every state must apply to commercial drivers. States can be stricter, but they cannot be more lenient. These federal minimums exist because commercial vehicles present risks that ordinary passenger cars do not, and because the federal government decided that a patchwork of inconsistent state standards was inadequate to address those risks.

The FMCSA’s disqualification rules are not suggestions. When a CDL driver is convicted of a qualifying offense, disqualification is mandatory under federal law. A judge in the criminal case cannot waive it. A state licensing agency cannot ignore it. The disqualification applies, and it is tracked nationally through the Commercial Driver’s License Information System, which means it follows the driver regardless of what state they move to or which carrier they apply to.

Understanding that these penalties are federally mandated helps explain why CDL DWI defense requires familiarity with both the criminal law and the regulatory framework—and why the outcome in the criminal case, while important, does not tell the whole story.

WHY CDL VIOLATIONS FOLLOW DRIVERS ACROSS STATE LINES

Every state participates in the Commercial Driver’s License Information System (CDLIS), a national database that tracks CDL holders and their violation history. When a CDL driver is convicted of a qualifying offense in any state, that conviction is reported to CDLIS and to the driver’s home state licensing authority.

There is no practical way to avoid CDL consequences by relocating. The record travels with the driver, and any new employer conducting a standard background check will see it.

FIRST OFFENSE

7.2 CDL Disqualification for a First Offense

Under federal regulations, a first alcohol-related violation involving a commercial motor vehicle triggers a mandatory one-year CDL disqualification. That is the federal minimum, and it applies regardless of the specific circumstances of the violation, regardless of the driver's work history, and regardless of any mitigating factors a court might otherwise consider in the criminal case.

One year. Twelve months during which a professional driver cannot legally operate a commercial motor vehicle. For most commercial drivers, that means twelve months without their primary source of income.

If the first offense occurs while the driver is transporting hazardous materials, the mandatory disqualification period increases to three years. This reflects the heightened public safety concerns associated with hazardous cargo—the same logic that makes hazmat endorsements subject to stricter screening in the first place.

Violation	CDL Disqualification
First alcohol-related offense involving a commercial vehicle	1 year
First offense while transporting hazardous materials	3 years
DWI conviction in a personal vehicle (first offense)	1 year
Refusal to submit to chemical test (first offense)	1 year
Second serious offense (any combination)	Lifetime

Violation	CDL Disqualification
Using a CMV to commit a felony involving controlled substances	Lifetime

Note: These figures reflect federal minimum standards under FMCSA regulations. Some violations may trigger additional state-level consequences. The specific facts of each case determine which disqualification period applies. Consult a CDL defense attorney for guidance on your specific situation.

HOW LONG CAN YOU LOSE YOUR CDL?

For a first alcohol-related offense involving a commercial vehicle, federal regulations require a minimum one-year CDL disqualification.

If hazardous materials were being transported at the time, the minimum increases to three years.

For a second serious offense—regardless of how much time has passed since the first—lifetime disqualification applies under federal law.

These are minimums. States may impose longer periods, and certain offenses carry additional consequences beyond the disqualification itself.

7.3 Situations That Trigger First-Offense Disqualification

The federal regulations identify specific violations that trigger CDL disqualification. For alcohol-related offenses, the qualifying events include: operating a commercial motor vehicle with a BAC of 0.04 or higher; refusing to submit to a lawfully requested chemical test while operating a commercial vehicle; and being convicted of a DWI offense while operating a commercial vehicle, including offenses charged under state law that involve alcohol or controlled substances.

A DWI conviction in a personal vehicle also triggers mandatory CDL disqualification. The federal rules do not limit consequences to incidents that occurred in a commercial vehicle—any conviction for a qualifying offense counts,

regardless of what was being driven. A driver arrested on a Saturday evening in their personal pickup truck, convicted months later, faces the same one-year CDL disqualification as a driver arrested in a semi.

This is the point that surprises most CDL holders who were driving their own vehicles when they were arrested. The disqualification rules follow the professional license, not the vehicle. There is no “personal vehicle exception” in the federal regulations.

7.4 How First-Offense Disqualification Affects Employment

A driver with fifteen years of clean commercial driving history is arrested on a Friday night in his personal truck. His BAC was 0.09 – above the 0.08 standard, but he was not in a commercial vehicle.

The criminal case takes nine months to resolve. He pleads guilty to a reduced charge. His attorney secures probation and no jail time. He considers the outcome a relative success.

Two weeks later, the conviction is reported to the Texas DPS. His CDL is disqualified for one year under federal regulations.

His carrier cannot legally assign him to commercial driving duties. He has no CDL. He cannot drive commercially. In practical terms, his job is gone until the disqualification ends—and finding another commercial driving position with a recent DWI conviction on his record will not be easy.

The scenario above is not unusual. It illustrates the gap between a “good” criminal outcome and the full picture for a

CDL driver. The criminal case resolved favorably by most measures. The CDL consequences were still devastating.

Most trucking companies cannot retain a driver with a disqualified CDL. Federal safety regulations prohibit carriers from allowing disqualified drivers to operate commercial vehicles, and the liability exposure of doing so is severe. Whatever the carrier's personal regard for the driver, the regulatory reality leaves little room for accommodation during a disqualification period.

For drivers who own their own equipment or who are owner-operators, the consequences are similarly direct: no CDL means no ability to haul loads, no income from commercial operations, and potential jeopardy of the operating authority that depends on a qualified driver.

SECOND OFFENSE

7.5 Longer Disqualification Periods for Second Offenses

If a first serious CDL violation results in a one-year disqualification, a second serious violation results in lifetime disqualification. There is no middle ground in the federal framework. The step from first to second offense is a step from a one-year setback to a permanent bar from commercial driving.

This is not a penalty that scales gradually. It is a cliff. One serious violation: one year. Two serious violations: career over, at least in commercial driving. The federal regulations reflect a policy judgment that a driver who has already been sanctioned for a serious violation and commits another has forfeited the right to operate commercial vehicles.

The word "lifetime" in this context means exactly what it says. There is no fixed period after which the disqualification

automatically expires. There is no automatic reinstatement. The disqualification is permanent unless the driver successfully pursues reinstatement through a specific process, which we will address shortly.

7.6 Violations That Count as a Second Offense

The violations that count as “serious offenses” for purposes of cumulative disqualification include the same alcohol-related offenses that trigger first-offense disqualification, but also extend to certain other categories: leaving the scene of an accident involving a commercial motor vehicle; using a commercial vehicle in the commission of a felony; and operating a commercial vehicle while the CDL is already suspended, revoked, or disqualified for a previous violation.

What matters for counting purposes is not whether the two violations occurred in the same state, not whether they were separated by many years, and not whether the first violation resulted in rehabilitation or a clean record afterward. Any two qualifying violations, anywhere, at any time, accumulate. The federal framework has no statute of limitations for the purposes of counting toward lifetime disqualification.

A driver who received a CDL disqualification ten years ago for an alcohol-related conviction and who is now convicted of a second qualifying offense faces a lifetime ban regardless of everything that happened in between.

WHAT VIOLATIONS COUNT TOWARD A LIFETIME BAN?

Federal regulations identify several categories of “serious offenses” that can accumulate toward lifetime CDL disqualification. These include:

- Operating a commercial vehicle with a BAC of 0.04 or higher
- Refusing to submit to chemical testing while operating a CMV
- DWI conviction while operating any vehicle (commercial or personal)
- Leaving the scene of an accident involving a commercial vehicle
- Using a commercial vehicle to commit a felony
- Operating a CMV while CDL is already suspended or disqualified

Two of any of these—at any point in a career, in any state—results in lifetime CDL disqualification under federal law.

LIFETIME BANS

7.7 When Lifetime CDL Disqualification Can Occur

Lifetime disqualification is the most severe consequence in the CDL regulatory framework, and understanding when it applies is critical for any driver who has prior violations on their record.

The primary trigger is a second serious offense, as described above. But there is also a category of violations that results in lifetime disqualification on the first occurrence, without any prior history required. Using a commercial motor vehicle in the commission of a felony involving a controlled substance—manufacturing, distributing, or dispensing a controlled substance—triggers permanent disqualification immediately. There is no one-year period first. The first offense is the last.

For most CDL drivers facing DWI charges, the immediate lifetime ban scenario does not apply. The more immediate concern is ensuring that a current DWI does not become the second qualifying offense that triggers it.

7.8 Possibility of Reinstatement After a Lifetime Ban

The word “lifetime” in federal CDL regulations does not quite mean what it says in every circumstance. After a minimum of ten years, a driver who has been lifetime-disqualified may apply to the state licensing authority for reinstatement. That application does not automatically succeed. The driver must demonstrate, to the state’s satisfaction, that allowing them to operate a commercial vehicle would not present a public safety risk. The state has discretion to grant or deny the application.

This reinstatement pathway applies only to lifetime disqualifications triggered by the accumulation of two serious offenses. It does not apply to the category of lifetime disqualifications triggered by the use of a CMV in committing a controlled substance felony. Those are permanent, without exception.

The practical reality is that even where reinstatement is technically possible, it is not guaranteed, it requires significant time and effort, and the commercial driving career that existed before the disqualification may not be available to return to after a ten-year absence. Reinstatement is a legal possibility, not a reliable plan.

CAN YOU EVER GET A CDL BACK AFTER DISQUALIFICATION?

For standard disqualifications—one year for a first offense—the CDL is restored automatically at the end of the disqualification period, assuming other licensing requirements are met.

For lifetime disqualifications resulting from two serious offenses, federal law allows an application for reinstatement after a minimum of ten years. The state has discretion to grant or deny the application.

For lifetime disqualifications resulting from the use of a CMV in a controlled substance felony, there is no reinstatement pathway.

The most reliable way to avoid a lifetime disqualification is to avoid a second qualifying offense—which is one reason why aggressively defending a first offense matters so much.

HAZARDOUS MATERIALS ENDORSEMENTS

7.9 Why Hazmat Drivers Face Stricter Rules

A hazardous materials endorsement is a separate credential that authorizes a CDL holder to transport materials classified as hazardous under federal law—substances that can pose serious risks if released or mishandled during transport. Flammable liquids, corrosive chemicals, explosives, radioactive materials, and other dangerous substances all fall under this category.

Obtaining a hazmat endorsement requires more than passing a knowledge test. Federal law requires a Transportation Security Administration background check and security threat assessment before the endorsement is issued. The same process is repeated periodically. Drivers with certain criminal convictions—including drug offenses and several categories of felony—are disqualified from holding a hazmat endorsement regardless of their general CDL status.

The rationale is straightforward: hazardous materials represent a threat not just in the event of an accident but also as a potential tool for deliberate harm. The security screening process reflects that concern.

WHY HAZMAT DRIVERS FACE EXTRA SCRUTINY

Transporting hazardous materials carries risks that go beyond ordinary commercial driving. A crash involving a hazmat vehicle can create environmental contamination, mass casualty events, or public safety emergencies that affect entire communities.

Federal regulations require hazmat drivers to undergo TSA background checks and security threat assessments before the endorsement is issued and periodically thereafter. Certain convictions—including some that would not otherwise affect a CDL—can disqualify a driver from holding the hazmat endorsement.

For drivers whose work depends on the hazmat endorsement, an alcohol-related conviction can end not just the endorsement but the entire category of employment that depended on it.

7.10 How Alcohol Violations Affect Hazmat Endorsements

The disqualification periods for alcohol-related offenses are longer when hazardous materials were being transported at the time of the violation. A first offense that would otherwise result in a one-year disqualification becomes a three-year disqualification when it occurs during a hazmat transport. This is one of the few situations where the specific circumstances of the violation—rather than just the violation itself—directly determine the penalty period.

Beyond the extended disqualification period, an alcohol-related conviction may also complicate the renewal of the hazmat endorsement once the disqualification ends. The TSA security threat assessment that governs hazmat endorsements evaluates a driver's full background, including criminal history. A DWI conviction appears in that review, and while it does not automatically disqualify a driver from the endorsement, it is a factor that may affect the outcome.

For drivers who specialize in hazardous materials transport—tanker drivers, chemical haulers, certain agricultural drivers—the hazmat endorsement is often the credential that makes them valuable in the job market. Losing it, even temporarily, can mean losing access to the most specialized and highest-paying positions in commercial trucking.

CDL Drivers vs. Regular Drivers: Understanding the Difference

The consequences described in this chapter are not variations on what ordinary drivers face. They are categorically different—stricter in degree, broader in scope, and more lasting in effect. The comparison below makes that clear.

Issue	Regular Driver	CDL Driver
Legal BAC limit while driving	0.08	0.04 when operating a CMV
Applies when driving personal vehicle?	Yes — 0.08 standard	Yes — conviction still affects CDL
Federal regulations	Not typically involved	FMCSA rules apply nationwide
License consequences	Standard suspension	CDL disqualification
First-offense disqualification	Varies by state	1 year (federal minimum)
Second-offense consequences	Longer suspension	Lifetime CDL disqualification
Employment impact	Usually limited	Typically cannot work as driver
Cross-state tracking	Limited	National CDL databases (CDLIS)

The contrast is sharpest in two areas. First, the BAC limit: 0.08 for ordinary drivers, 0.04 for CDL holders operating commercially—a standard twice as strict. Second, the disqualification consequences: a second offense for a regular driver results in a longer license suspension; for a CDL driver, it results in permanent loss of the commercial driving credential. The stakes are not comparable.

How CDL Disqualification Happens: The Chain of Events

Understanding the sequence of events that leads from a violation to disqualification helps clarify why early action matters—and where in the process a defense can make a difference.

1. VIOLATION OR ARREST

A DWI arrest, test refusal, or conviction of a qualifying offense occurs.



2. REPORTING TO STATE LICENSING AUTHORITY

The violation is reported to the Texas Department of Public Safety through court records, national databases, or both.



3. CDL DISQUALIFICATION PROCESS BEGINS

DPS applies the mandatory disqualification period under federal FMCSA standards.



4. COMMERCIAL DRIVING PRIVILEGES SUSPENDED

The driver cannot legally operate a commercial motor vehicle for the duration of the disqualification.



5. EMPLOYMENT CONSEQUENCES

The driver's employer is typically notified, and the driver cannot be assigned to commercial driving duties. Termination, suspension, or reassignment often follows.

The key insight from this sequence is that each step follows from the previous one with relatively little discretion. Once a conviction is reported, the disqualification follows mandatorily. The place to intervene is before the conviction—in the criminal case, in the ALR proceedings, and through any other available legal challenges. After the conviction, the federal framework takes over.

THE CAREER IMPACT OF CDL DISQUALIFICATION

CDL disqualification affects more than just driving privileges. For commercial drivers, the consequences ripple through every aspect of their professional life.

Insurance eligibility: Trucking carriers must maintain liability insurance that covers their drivers. Insurance underwriters review driving records carefully. A disqualification or alcohol-related conviction may affect whether a carrier's insurance will cover a returning driver, and at what cost to the carrier.

Employment background checks: Most carriers conduct background checks through systems that access commercial driver records. A CDL disqualification, a conviction, and the associated federal database entries will appear in these checks. Carriers with strict hiring policies may decline to hire drivers with recent alcohol-related violations, even after the disqualification period has ended.

Hiring by trucking companies: The commercial trucking industry is competitive, and many carriers have formalized policies that create waiting periods before a driver with an alcohol-related conviction can be hired. Some specialized carriers—particularly those that haul for government contracts or in safety-sensitive industries—may have permanent exclusions.

For many CDL drivers, the CDL is not just a license. It is the foundation of everything: the income, the career identity, the ability to support a family. Understanding the full scope of what is at risk is the first step toward defending it effectively.

Closing Thoughts

The federal CDL disqualification rules are unforgiving in their precision. One qualifying offense: one year. Two qualifying offenses: lifetime. Hazmat transport when the offense occurs: three years instead of one. The rules do not bend for good intentions, clean prior records, or sympathetic circumstances. They apply because Congress and the FMCSA decided that the public safety stakes of commercial driving demand exactly this kind of certainty.

That certainty cuts both ways. It means the consequences of conviction are predictable and severe. It also means that avoiding conviction—or securing a resolution that does not trigger the disqualification framework—has a clearly defined, enormous value. The year of income preserved by avoiding a first-offense disqualification is not a hypothetical benefit. It is a concrete number that can be calculated.

This is why the criminal case and the ALR proceeding matter so much. They are not just about keeping a clean record. They are about preserving a career that, for most commercial drivers, has no obvious alternative. The next chapter looks at what a CDL driver can actually do—from the moment of arrest forward—to protect that career.

Frequently Asked Questions

How long will I lose my CDL after a DWI?

Under federal regulations, a first alcohol-related offense involving a commercial vehicle results in a mandatory one-year CDL disqualification. If hazardous materials were being transported at the time of the offense, the minimum increases

to three years. A DWI conviction while driving a personal vehicle also triggers the one-year disqualification—the vehicle involved does not affect the disqualification requirement. These are federal minimums; some states impose longer periods.

Will I lose my CDL for a second offense?

Yes. Under federal regulations, a second serious offense results in lifetime CDL disqualification. There is no intermediate step and no judicial discretion—the lifetime disqualification is mandatory once a second qualifying conviction is recorded. The two offenses do not need to have occurred close in time, and there is no statute of limitations. Any two qualifying violations, at any point in a career, accumulate.

What offenses can lead to a lifetime CDL ban?

Lifetime disqualification applies in two situations. First, when a driver accumulates two serious offenses—including alcohol-related offenses, test refusals, leaving the scene of an accident in a CMV, or operating a CMV while the CDL is already disqualified. Second, immediately upon a first offense of using a commercial motor vehicle in the commission of a felony involving a controlled substance. The second category results in permanent disqualification without the possibility of reinstatement.

Do CDL penalties apply even if I was driving my personal vehicle?

Yes. Federal CDL disqualification rules are tied to the conviction, not the vehicle. A DWI conviction while driving a personal vehicle triggers the same mandatory one-year CDL disqualification as a conviction that occurred in a commercial vehicle.

The CDL is a professional license that accompanies the driver everywhere. There is no exception for off-duty or personal vehicle operation.

What happens to my hazmat endorsement after a DWI?

If the DWI occurred while transporting hazardous materials, the CDL disqualification period increases from one year to three years. Beyond the disqualification period, a DWI conviction may affect the TSA security threat assessment that governs hazmat endorsement renewals. While a DWI conviction does not automatically disqualify a driver from the endorsement, it is a factor in the background review process.

Can I still drive a regular car if my CDL is disqualified?

CDL disqualification removes the commercial driving privilege specifically. Whether a driver retains the ability to drive a personal vehicle depends on whether the regular driver's license was separately suspended through the ALR process or criminal case. The two are distinct: a CDL disqualification does not automatically suspend the underlying regular driver's license, but a driver who also lost the regular license through the ALR process would face both restrictions simultaneously.

Can CDL disqualification affect my future employment?

Significantly. CDL violations are tracked in national databases that trucking companies access during the hiring process. A disqualification, an alcohol-related conviction, and the associated federal database entries will appear in background checks for years. Many carriers have policies that create waiting periods before hiring a driver with an alcohol-related

conviction, and some specialized carriers have exclusions that may be effectively permanent.

Why are CDL penalties so much stricter than regular driver penalties?

Because the vehicles are larger, the consequences of impaired driving are more severe, and commercial drivers are licensed professionals who accepted higher standards when they obtained the CDL. Federal regulators concluded that the public safety risks of commercial driving require mandatory, uniform penalties that leave no room for discretionary leniency. The regulations are designed to be predictable and certain, precisely so that the consequences of a violation cannot be minimized by any individual judge or state agency.

CHAPTER 8

WHAT HAPPENS TO YOUR JOB

For most CDL drivers I have represented, the criminal case was not what kept them up at night.

It was the job.

Will I still be employed when this is over? Will my company find out? Do I have to tell them? Can they fire me before I've even been to court?

These are not secondary concerns. For a driver whose entire income depends on holding a commercial license and showing up to work, the employment consequences of a DWI arrest can be more immediately devastating than anything a criminal court will do. The criminal case may take months to resolve. The employer's response can come within days.

This chapter addresses those concerns directly—how employers find out, what they are required to do and what they do anyway, what the federal Clearinghouse means for a driver's record, and why companies sometimes act before anyone has been convicted of anything.

8.1 Why CDL Drivers Fear the Job Consequences More Than the Criminal Ones

A driver with twelve years behind the wheel gets arrested on a Thursday night while driving home from a family dinner. He was in his personal truck, not a commercial vehicle. He was not on duty.

By Friday morning, the criminal case has barely begun—he doesn't even have an attorney yet. But he is already thinking about Monday. About whether he needs to tell his dispatcher. About whether his safety director will call. About whether he'll still have a route next week.

The courthouse feels abstract. The parking lot at the terminal feels very close.

This is the reality for most CDL drivers after an arrest. The legal system operates on its timeline, but the job operates on a different one—and that timeline can move much faster.

Commercial drivers who are disqualified from operating a CDL cannot legally be assigned to commercial driving duties. Carriers who continue to assign disqualified drivers face serious regulatory and liability exposure. The business logic of what happens next, from the employer's perspective, is not complicated. What makes it hard for drivers is that this logic can activate before any legal finding has been made—before a conviction, before a hearing, sometimes before charges have even been filed.

EMPLOYER REPORTING

8.2 Company Policies for Reporting Arrests

Many trucking companies include reporting requirements in their driver agreements, handbooks, or safety policies. These requirements typically obligate the driver to notify the employer within a specific period—often 24 to 48 hours—of any arrest, citation, or license action. The scope of what must be reported varies: some policies require reporting only convictions, others require reporting arrests, others require reporting any contact with law enforcement that results in a citation or detention.

The question drivers most often ask is whether they have to tell their employer about an arrest before they know how the case will turn out. The answer depends entirely on what the company's policy says. If the policy requires reporting arrests within 24 hours, the driver who waits to see how the case resolves has already violated company policy before the criminal case even has a first court date.

The risk of failing to disclose when policy requires it is often worse than the risk of disclosing. Employers who discover that a driver knew about an incident and concealed it sometimes view the concealment as a more serious breach of trust than the underlying incident. Disclosure at least gives the driver some control over the narrative. Concealment, when discovered, removes that control entirely.

A driver reviews his company handbook the morning after his arrest. He finds a paragraph in the safety policy section that reads: "Drivers must report to their immediate

supervisor within 24 hours any arrest, citation, or summons related to their operation of any motor vehicle.”

He did not expect the policy to cover his personal vehicle. He now has less than a day to decide whether to call his dispatcher.

He calls his attorney first. His attorney advises him to report, as required, while keeping the conversation factual and brief. He does.

His company places him on administrative leave pending review. It is uncomfortable. But he has not been fired, and he has not violated company policy.

DO I HAVE TO TELL MY EMPLOYER ABOUT A DWI ARREST?

The answer depends on your company’s specific policy, which you should review immediately after an arrest.

Many trucking companies require drivers to report arrests or citations within a defined timeframe—sometimes 24 to 48 hours. Some policies cover only commercial vehicle incidents; others cover any arrest in any vehicle.

Failing to report when required by policy may result in discipline or termination for the failure to disclose—independent of, and sometimes more serious than, the underlying incident.

Before deciding whether and how to report, review your handbook and speak with an attorney. Knowing what your policy requires, and following it, gives you the best available footing.

8.3 DOT Reporting Requirements

Beyond company policies, federal regulations impose their own reporting obligations on commercial drivers. Under federal law, a CDL driver who is convicted of a disqualifying offense must notify their employer within 30 days. This requirement applies regardless of what the company’s internal policy says

and regardless of whether the driver was driving a commercial vehicle at the time.

Employers, in turn, have their own federal obligations. Carriers are required to obtain driving record information on their drivers and to review it annually. They are prohibited from knowingly allowing a disqualified driver to operate a commercial vehicle. And they are required to participate in the DOT drug and alcohol testing program—including the Clearinghouse system, which we will address in the next section.

The combination of driver and employer obligations means that the regulatory framework is actively working to surface violations. A driver who hopes an arrest will go unnoticed is relying on a system that was specifically designed to prevent that outcome.

8.4 Internal Company Safety Rules

Federal regulations set a floor. Most carriers build well above it. Internal safety policies often reflect the carrier's insurance requirements, the expectations of major shippers who contract with the carrier, and the risk management philosophy of the company's safety leadership.

Some companies maintain zero-tolerance policies for alcohol-related incidents: any arrest, any positive test, any refusal results in immediate termination. These policies exist not because the law requires them but because the carrier has decided that the liability risk and insurance cost of retaining drivers with alcohol-related history exceeds whatever value those drivers provide. The driver's guilt or innocence is not the question the policy is designed to answer.

Other companies take a more graduated approach, distinguishing between arrests and convictions, between commercial

vehicle incidents and personal vehicle incidents, or between first-time occurrences and repeat violations. Understanding which type of company a driver works for—and what the policy actually says—is critical for managing the employment dimension of a CDL DWI case.

WHY TRUCKING COMPANIES ACT QUICKLY AFTER ARRESTS

Commercial carriers operate under significant business pressure to respond quickly to alcohol-related incidents involving their drivers. The reasons have less to do with punishing individual drivers than with protecting the carrier's regulatory standing, insurance coverage, and legal exposure.

A carrier that continues to assign a driver to commercial duties after learning of an alcohol-related arrest faces potential liability if that driver is later involved in an accident. A carrier whose safety rating is reviewed by federal inspectors and found to have employed drivers with unresolved violations faces regulatory consequences.

When a company acts before a conviction, it is usually acting to protect itself—not to prejudge the driver.

THE DOT DRUG & ALCOHOL CLEARINGHOUSE

8.5 What the Clearinghouse Is

The DOT Drug & Alcohol Clearinghouse is a federal database maintained by the Federal Motor Carrier Safety Administration that tracks drug and alcohol violations involving CDL drivers. It became operational in January 2020 and represented a significant shift in how the federal government manages commercial driver safety records.

Before the Clearinghouse existed, a driver with an unresolved drug or alcohol violation could, in theory, move to a new

employer without that employer having easy access to the violation history. The Clearinghouse was created specifically to close that gap. It functions as a single, authoritative source of truth about a driver's drug and alcohol violation status that every prospective employer must consult before hiring.

WHAT IS THE DOT DRUG & ALCOHOL CLEARINGHOUSE?

The DOT Drug & Alcohol Clearinghouse is a federal database that tracks drug and alcohol violations for commercial drivers. It was created to prevent drivers with unresolved violations from moving between employers without disclosure.

Violations tracked in the Clearinghouse include failed drug tests, refusals to submit to testing, and certain alcohol-related violations that occur in connection with DOT-regulated testing.

Every trucking company is required by federal regulation to query the Clearinghouse before hiring a CDL driver and to conduct annual queries on current drivers. A driver with an unresolved Clearinghouse entry cannot be hired for or continue in safety-sensitive functions.

8.6 How Violations Are Recorded in the Clearinghouse

The Clearinghouse receives reports from employers, medical review officers, and substance abuse professionals. When a CDL driver fails a DOT drug test, refuses to test, or has a positive alcohol test result above the applicable threshold, that result is reported to the Clearinghouse within a defined timeframe—typically two business days. The violation becomes part of the driver's record and remains there until the driver completes the required return-to-duty process.

The return-to-duty process involves evaluation by a Substance Abuse Professional, completion of any recommended education or treatment, follow-up testing, and, eventually, a

negative return-to-duty test result. All of these steps are tracked in the Clearinghouse. Until they are completed, the violation remains an open—and visible—entry in the driver’s record.

It is important to understand what the Clearinghouse does and does not track. It records violations from the DOT-regulated testing program: pre-employment tests, random tests, post-accident tests, reasonable suspicion tests, and return-to-duty tests. A DWI arrest that does not involve a DOT-administered test may not automatically appear in the Clearinghouse—though it will appear in driving records and national licensing databases and may still be discovered through other means.

DRUG OR ALCOHOL VIOLATION OCCURS

A failed drug test, a refusal to submit to testing, or a qualifying alcohol-related violation is documented.



VIOLATION REPORTED TO THE CLEARINGHOUSE

The employer or testing agency submits the violation to the federal database, typically within two business days of the result.



INFORMATION STORED IN THE DRIVER’S RECORD

The violation becomes part of the driver’s Clearinghouse record and remains there until resolved through the required return-to-duty process.





VISIBLE TO CURRENT AND FUTURE EMPLOYERS

Any carrier conducting a pre-employment or annual query sees the violation. A driver with an unresolved Clearinghouse entry cannot be hired for safety-sensitive functions.

8.7 How Employers Use the Clearinghouse

Before a trucking company can hire a CDL driver for a safety-sensitive position, it must conduct a full query of the Clearinghouse. If the query reveals an unresolved violation—a positive test that has not been addressed through the return-to-duty process—the driver cannot be hired into that position. This is not a discretionary policy choice; it is a federal requirement.

Employers must also conduct annual queries on their current drivers. A driver who develops a Clearinghouse violation while employed must complete the return-to-duty process before they can continue in safety-sensitive functions. The employer who discovers the violation through an annual query and continues to assign the driver to commercial driving without ensuring completion of that process is in federal compliance violation.

The practical implication for CDL drivers is that a Clearinghouse entry does not just affect the current job. It travels with the driver to every prospective employer in the commercial trucking industry until it is resolved. Getting it resolved—through the proper return-to-duty process, with a licensed Substance Abuse Professional—is the only path to clearing it.

WILL MY COMPANY FIND OUT ABOUT MY ARREST?

Whether and how quickly an employer learns depends on several factors.

If the incident involved a DOT drug or alcohol test, the result goes to the Clearinghouse almost immediately. The employer will see it on their next Clearinghouse query, which may be triggered by the incident itself.

If the incident was a standard DWI arrest without a DOT test, the employer may learn through required driver reporting, driving record monitoring programs, or annual motor vehicle record checks.

Many large carriers use third-party monitoring services that flag changes to driver records in near real time. Assuming an arrest will stay private until the case is resolved is, for most CDL drivers at most carriers, an unreliable assumption.

TERMINATION RISK

8.8 Why Some Drivers Lose Their Job Before Their Case Is Resolved

The criminal justice system presumes innocence. Employment law, in most cases, does not require the same courtesy. Texas is an at-will employment state, which means employers can terminate employees for any reason that does not violate a specific legal prohibition. An arrest, even one that has not resulted in a conviction, can be sufficient grounds for termination under company policy without the employer having to establish guilt.

This produces a situation that many drivers find deeply unfair: they are treated as though they have been convicted before the process has run its course. That frustration is understandable. But it reflects the reality that employment decisions

and criminal justice outcomes operate under entirely different standards and serve entirely different purposes.

Companies that terminate drivers quickly after an arrest are not necessarily concluding that the driver is guilty. They are often concluding that the uncertainty created by the arrest—the potential for CDL disqualification, the insurance implications, the regulatory exposure—represents a business risk they are not willing to carry while the case works its way through the system. That calculus can change if the case resolves favorably, though by that point the employment relationship may already be beyond repair.

8.9 Temporary Suspension vs. Termination

Not all companies move immediately to termination. Some, particularly larger carriers with established HR processes, remove the driver from safety-sensitive duties on a temporary basis while the situation is under review. During this period, the driver may be assigned to non-driving tasks if available, placed on paid or unpaid administrative leave, or simply told not to report until further notice.

The distinction between a temporary suspension and a termination matters practically. A driver who has been suspended still has an employment relationship with the carrier. If the criminal case resolves favorably, there may be a path back to driving duties. A driver who has been terminated faces the additional challenge of job searching with a recent DWI arrest on their record—which means the Clearinghouse, the driving record databases, and every background check a prospective carrier runs.

Which outcome a driver faces often depends on factors outside their control: the company's policy, the carrier's

insurance obligations, the driver's tenure and record, and the specific circumstances of the incident. But a driver who understands these dynamics may be better positioned to navigate the employment conversation—especially if their attorney can help them understand what information needs to be disclosed and how to present it.

CAN A COMPANY FIRE ME BEFORE I'M CONVICTED?

Yes. In Texas and most other states, employment is at-will, meaning an employer can terminate a driver for any lawful reason—including an arrest that has not resulted in a conviction.

Companies that act before a conviction are not making a legal determination about guilt. They are making a business decision based on their safety policies, insurance obligations, federal compliance requirements, and liability exposure.

Whether a termination before conviction is fair is a different question from whether it is legal. In most circumstances, it is legal.

WHY TRUCKING COMPANIES FIRE DRIVERS AFTER ARRESTS

8.10 Insurance Requirements

Commercial trucking carriers carry substantial liability insurance—policies that cover the damages from accidents involving their vehicles and drivers. Insurance underwriters price those policies based on risk, and the driving records of the carrier's drivers are among the most significant risk factors they evaluate.

A driver with a recent alcohol-related arrest or conviction represents elevated risk in the underwriter's assessment. In some cases, a carrier's insurance policy may contain provisions that restrict coverage for drivers with certain violation histories. If a carrier continues to assign an at-risk driver to commercial

duties and that driver is involved in an accident, the insurance carrier may contest coverage or invoke policy exclusions. The carrier could find itself uninsured for a catastrophic loss.

This is not a hypothetical scenario that insurance companies invented to pressure carriers. It reflects genuine actuarial risk, and carriers who have been through the experience of a serious accident involving a driver with a known violation history understand exactly how consequential it can be. The preemptive response—removing the driver from duties—is partly about avoiding that exposure.

8.11 Company Safety Policies

A carrier's safety rating, assigned by the Federal Motor Carrier Safety Administration, affects its ability to do business. Carriers with poor safety ratings may face enhanced scrutiny, compliance reviews, and in the most serious cases, orders to cease operations. Shippers who use carriers with poor safety ratings may face their own liability exposure.

Carriers with strong safety cultures understand that maintaining those ratings requires consistent application of safety policies. A safety department that looks the other way when drivers have alcohol-related violations undermines the culture it is supposed to be protecting. The visible enforcement of alcohol policies—including removal of drivers pending review—is partly about the individual driver and partly about the signal it sends to everyone else.

8.12 Liability Concerns

If a carrier allows a driver with a known alcohol-related violation to continue operating a commercial vehicle, and that driver

is subsequently involved in an accident causing injury or death, the carrier's decision to retain the driver becomes exhibit one in the plaintiff's negligent entrustment case. Negligent entrustment—allowing someone to operate a vehicle when the owner knew or should have known the operator was unsafe—is a legal theory that can substantially expand a carrier's liability exposure.

A carrier that retained a driver it knew had been arrested for DWI, without taking any action, is in a far weaker position to defend a negligent entrustment claim than a carrier that promptly removed the driver from service upon learning of the arrest. That legal reality directly shapes carrier behavior, independent of any genuine concern about the individual driver's situation.

8.13 Federal Compliance

Beyond insurance and liability, carriers must maintain compliance with FMCSA regulations to preserve their operating authority. The FMCSA has the power to place carriers on notice, to audit their safety management practices, and in extreme cases, to issue out-of-service orders. A carrier found during a compliance review to have been knowingly employing disqualified drivers faces consequences that can affect the entire operation.

The compliance motivation for acting quickly after a driver arrest is therefore not just about the individual driver. It is about protecting the carrier's ability to continue operating at all.

What Happens to Your Job: The Typical Sequence

For CDL drivers trying to anticipate what comes next, understanding the typical employment sequence after an arrest helps set realistic expectations.

DWI ARREST

Driver is arrested, whether in a commercial vehicle or a personal one. The arrest record is created. The 15-day ALR clock begins.



EMPLOYER LEARNS ABOUT THE INCIDENT

The company may learn through driver reporting requirements, driver record monitoring systems, background checks run during routine audits, or notification from law enforcement in cases involving commercial vehicles.



COMPANY SAFETY REVIEW

The carrier's safety department reviews the situation. They examine company policy, insurance obligations, federal compliance requirements, and the driver's prior record.



EMPLOYMENT DECISION

Outcomes vary by company and circumstance:

- Temporary removal from driving duties pending the outcome of the case
- Suspension, with or without pay, while the internal review proceeds
- Termination, particularly where zero-tolerance policies apply or CDL disqualification has been confirmed
- Continued employment in a non-driving role, if available and if company policy permits

The most important point in this sequence is the gap between the arrest and any legal resolution. The employer's response does not wait for the outcome of the criminal case. It begins when the employer learns of the incident, and the employment decision—whatever it turns out to be—often precedes everything else.

Closing Thoughts

The criminal case and the job are two separate problems that begin at the same moment and proceed on different timelines. Understanding this separation—and addressing both problems rather than focusing exclusively on one—is essential for a CDL driver who wants to protect everything that is at risk.

An experienced CDL defense attorney who understands the employment dimension of these cases can help a driver navigate both tracks simultaneously: managing the criminal and administrative proceedings while also advising on how to handle employer communications, reporting obligations, and the Clearinghouse implications. Handling one without attention to the other is a strategy that consistently leaves drivers worse off than they needed to be.

The next chapter turns to how experienced defense attorneys actually build CDL DWI cases—the specific defenses available, how testing evidence is challenged, and what a well-constructed defense looks like from the inside.

Frequently Asked Questions

Will my employer automatically find out about my DWI arrest?

Not necessarily automatically, but for most CDL drivers at most carriers, discovery is likely. If the arrest involved a DOT drug

or alcohol test, the result goes into the Clearinghouse almost immediately. If it did not, many carriers run continuous monitoring programs that flag changes to driver records, often within days. Even without monitoring, annual motor vehicle record checks will catch convictions. The assumption that an arrest can be kept private until the case resolves is rarely reliable.

Do I have to report my arrest to my employer?

It depends on your company's policy. Many trucking companies require drivers to report arrests, citations, or license actions within a defined timeframe—often 24 to 48 hours—regardless of whether the arrest involved a commercial vehicle. Review your driver handbook and employment agreement before deciding. If your policy requires reporting and you fail to do so, the failure to report can itself become grounds for termination, independent of the underlying incident.

What is the DOT Drug & Alcohol Clearinghouse?

The Clearinghouse is a federal database maintained by the FMCSA that tracks drug and alcohol violations for CDL drivers. It records positive drug test results, refusals to test, and certain alcohol violations from the DOT testing program. Every carrier must query it before hiring a CDL driver and annually for current drivers. A driver with an unresolved Clearinghouse entry cannot be assigned to safety-sensitive functions until the entry is resolved through the required return-to-duty process.

Do all trucking companies check the Clearinghouse?

Yes. Federal regulations require all FMCSA-regulated carriers to conduct a full Clearinghouse query before hiring a CDL driver

for safety-sensitive work and annual limited queries on current drivers. This is not optional. A carrier that hires a driver without a Clearinghouse query is in federal compliance violation.

Can my company fire me even if I haven't been convicted?

Yes. Texas is an at-will employment state, and most commercial drivers are employed on an at-will basis. A carrier can terminate a driver based on an arrest, based on a violation of company safety policy, or based on the practical business concerns created by the situation—without waiting for a criminal conviction. This is legal, even if it feels unfair, and it is a common response at carriers with strict alcohol policies.

Will a DWI arrest affect my ability to get another trucking job?

It can, significantly. Motor vehicle records are checked during the hiring process at virtually every commercial carrier. A DWI conviction—and to a lesser extent an arrest—will appear in those records for years. The CDL disqualification triggered by a conviction will be reflected in the CDLIS database. Many carriers have policies that create waiting periods before hiring a driver with an alcohol-related conviction, and some specialized carriers may have permanent exclusions for certain violations.

Can a company suspend me while my case is pending?

Yes, and many do. Temporary removal from safety-sensitive duties while a case is under review is a common response, particularly at larger carriers with established HR and safety processes. A suspension preserves the employment relationship—it is not a termination—and gives the company flexibility to reassign the driver if the case resolves favorably. Whether

the suspension is paid or unpaid depends on the company's policy and the circumstances.

Why are trucking companies so strict about alcohol-related violations?

Several converging pressures drive carrier responses to alcohol violations: insurance underwriters who price risk based on driver records and may restrict coverage for drivers with violations; federal safety ratings that depend on consistent compliance with safety regulations; liability exposure from negligent entrustment claims if a driver with a known violation history causes an accident; and the FMCSA's active oversight of carrier compliance. The strictness reflects business reality more than individual judgment.

CHAPTER 9

CAN YOU GET AN OCCUPATIONAL LICENSE WITH A CDL?

When a CDL driver learns their license may be suspended after a DWI arrest, there is often a moment of cautious optimism.

“Can I get an occupational license? I’ve heard other drivers who lost their license could still drive to work.”

It is a reasonable thing to hope for. Occupational licenses—sometimes called restricted licenses—are a familiar concept. Many people with suspended licenses obtain them and continue driving for essential purposes while their case is pending or their suspension runs its course. The relief they offer is real, and for ordinary drivers they can be a meaningful lifeline.

For CDL drivers, the answer is more complicated—and for most, more disappointing. Understanding why requires understanding something fundamental about the difference between a regular driver’s license and a commercial driver’s license, and between the authority of a state court and the authority of federal transportation regulations.

9.1 The Question Many CDL Drivers Ask

A driver with fifteen years of clean commercial driving history is arrested for DWI in his personal truck on a Friday evening. By the weekend, he has already been searching the internet for answers.

He finds information about Texas occupational driver's licenses. He reads that drivers with suspended licenses can sometimes apply to a court for limited privileges. He sees that purposes like "traveling to work" are specifically listed as qualifying reasons.

He feels a wave of relief. If he can get an occupational license, maybe he can still drive his route on Monday.

He calls his attorney on Saturday morning. The attorney explains the reality. The occupational license might allow him to drive his personal truck to the terminal. But once he gets there, he still cannot legally climb into a commercial vehicle.

The relief disappears.

This moment—the collision between what a driver hoped was true and what the law actually says—is one of the most common and most difficult conversations in CDL DWI defense. The occupational license exists. It is available in appropriate cases. But it does not do what many CDL drivers need most: restore the ability to operate a commercial motor vehicle.

OCCUPATIONAL LICENSES

9.2 What an Occupational Driver’s License Is

An occupational driver’s license is a court-issued order that grants limited driving privileges to a person whose license has been suspended or revoked. In Texas, a driver whose license has been suspended—whether through the ALR process following a DWI arrest or through another administrative action—may petition the court for an occupational license under Texas Transportation Code Chapter 521.

The court has discretion to grant or deny the petition. If granted, the order specifies the purposes for which the driver may operate a vehicle, the hours during which driving is permitted, the geographic area within which driving is allowed, and any other conditions the court imposes. Common approved purposes include traveling to and from work, attending school, performing essential household tasks such as grocery shopping or taking children to school, and attending medical appointments.

The occupational license is a creature of state law. It is issued by a Texas court pursuant to the Texas Transportation Code. It operates within the framework of Texas’s licensing system for non-commercial drivers. And that is precisely where its authority ends.

9.3 How to Apply for an Occupational License in Texas

Applying for an occupational license in Texas requires filing a petition with the appropriate court—typically the county court at law where the driver resides, or the justice of the peace court in some circumstances. The petition must establish that the driver has an essential need for driving privileges and must

include proof of financial responsibility, typically in the form of an SR-22 insurance certificate.

If the suspension arose from an ALR proceeding involving a DWI arrest, the driver must also obtain a copy of the driver's record from the Texas Department of Public Safety. Courts review these records before granting the petition, and a driver whose record reflects prior alcohol-related violations may face a more difficult path to approval.

Once granted, the occupational license order is presented to the DPS, which issues the actual license document. The entire process typically takes several weeks. During that period, the driver does not have driving privileges—the occupational license is not retroactive to the date of suspension.

HOW TO APPLY FOR AN OCCUPATIONAL LICENSE IN TEXAS

The process for obtaining an occupational license in Texas generally involves:

- Filing a petition with the county court at law or appropriate court in your county of residence
- Providing proof of financial responsibility (typically an SR-22 insurance certificate)
- Submitting a copy of your driving record from the Texas DPS
- Attending a hearing if required by the court
- Receiving the court's order specifying the permitted driving purposes, hours, and locations
- Presenting the order to DPS to obtain the actual license document

The court has discretion to grant or deny the petition and to impose conditions. An attorney can help prepare a petition that clearly establishes the essential need for driving and addresses any concerns the court is likely to have.

LIMITATIONS FOR CDL DRIVERS

9.4 Why CDL Drivers Face Additional Restrictions

The occupational license framework exists in Texas state law. CDL disqualification exists in federal law—specifically, in the regulations promulgated by the Federal Motor Carrier Safety Administration under the authority granted to it by Congress. These are two separate legal systems, and a state court order operates in only one of them.

Federal regulations require mandatory CDL disqualification for qualifying violations and prohibit drivers from operating commercial motor vehicles during the disqualification period. States must enforce these requirements to remain eligible for federal highway funds. A state court that issued an occupational license order authorizing commercial driving during a federal CDL disqualification period would be issuing an order that violates federal law—which no state court has authority to do.

This is the structural reason why an occupational license cannot restore commercial driving privileges. It is not a gap in the law, or an oversight, or a technicality that a clever petition might navigate around. It is the consequence of a deliberate federal policy decision that CDL disqualification must be uniform and mandatory, not subject to state-by-state variation or individual court discretion.

WHY CDL DRIVERS FACE MORE RESTRICTIONS THAN REGULAR DRIVERS

When an ordinary driver loses their license, a Texas court has broad authority to grant relief through an occupational license. The court is operating within the state licensing framework, and it has discretion.

When a CDL driver is disqualified, a different body of law governs: federal FMCSA regulations that apply uniformly across all fifty states. State courts cannot modify or waive federal CDL disqualification requirements.

This is why the relief available to ordinary drivers—an occupational license that allows driving for work—does not translate to CDL drivers in the same way. The state court can help with the personal vehicle. It cannot help with the truck.

9.5 When an Occupational License May Still Help

Despite its limitations for commercial driving purposes, an occupational license is not worthless for a CDL driver. It restores the ability to drive a personal vehicle—which, depending on the driver’s circumstances, may matter a great deal.

A driver who lives at some distance from the terminal, who has family obligations that require driving, or who needs to travel to court appearances, attorney meetings, or treatment programs all has practical need for some driving privileges even while CDL disqualification prevents commercial operation. The occupational license addresses that need, even if it cannot address the commercial driving need.

For drivers who can find temporary non-driving employment—whether with their current carrier in a non-driving role, with a different employer, or in a different field—the ability to commute makes the disqualification period more manageable. It does not restore the career, but it removes one obstacle during a difficult period.

CAN I STILL DRIVE MY PERSONAL VEHICLE IF MY CDL IS DISQUALIFIED?

Possibly, yes. CDL disqualification removes commercial driving privileges specifically. Whether the underlying regular

driver's license is also suspended depends on whether the ALR process resulted in a separate suspension of the personal license.

If the regular license was suspended through the ALR process, an occupational license may restore limited personal driving privileges for essential purposes.

If only the CDL was disqualified—without a corresponding suspension of the regular license—the driver may retain the ability to drive a personal vehicle without needing an occupational license at all.

An attorney can clarify which of these situations applies in a specific case.

WHY OCCUPATIONAL LICENSES DON'T RESTORE COMMERCIAL DRIVING PRIVILEGES

9.6 The Federal Rule Courts Cannot Override

The clearest way to understand the limitation is to look at what a court would need to do to grant a CDL driver an occupational license that allowed commercial driving. It would need to issue an order authorizing the driver to operate a vehicle category—a commercial motor vehicle—that federal law requires the driver to be disqualified from operating. The order would conflict directly with federal regulations. No Texas court will issue such an order, and no court in any state has the authority to do so.

The commercial driver licensing framework was designed this way deliberately. Congress and the FMCSA wanted to ensure that CDL disqualification penalties were uniform and certain—not subject to variation depending on which state a driver was in, which court heard their petition, or how sympathetically their circumstances were presented. The mandatory nature of the disqualification is the point.

1. LICENSE SUSPENSION

A DWI arrest or related administrative action triggers license suspension proceedings. The driver faces both a standard license suspension and CDL disqualification.

2. DRIVER APPLIES FOR AN OCCUPATIONAL LICENSE

The driver petitions a Texas court for limited driving privileges. The court reviews the petition under state law and may grant an order allowing driving for specific essential purposes.

3. COURT GRANTS LIMITED PERSONAL DRIVING

If approved, the court order allows the driver to operate a non-commercial vehicle for defined purposes, during defined hours, in defined locations. The order is a state court order governing the regular driver's license.

4. FEDERAL CDL DISQUALIFICATION STILL APPLIES

The court's authority extends only to state licensing matters. Federal CDL disqualification is governed by FMCSA regulations, which the court cannot waive or modify. The driver may drive a personal vehicle to work under the occupational license—but cannot drive the truck once they arrive.

The critical insight in this sequence is step four. The court's authority to grant occupational licenses derives from state law. Its authority has limits. Federal CDL disqualification is outside those limits. The arrow from step three to step four is not a legal pathway—it is a wall.

Occupational License vs. CDL Privileges: A Direct Comparison

The table below shows side by side what an occupational license can and cannot accomplish for a CDL driver.

Issue	Occupational License	CDL Driving Privileges
Personal vehicle driving	Often allowed for specific purposes (work, school, essential errands)	Not affected — personal license and CDL are separate
Commercial vehicle driving	Generally not allowed — federal CDL rules prohibit this	Requires a valid, active, non-disqualified CDL
Driving hours and purposes	Restricted to court-approved purposes, times, and destinations	Governed by hours-of-service and job requirements
Who can grant relief	A state court can issue an occupational license order	Federal FMCSA regulations — courts cannot override disqualification
Effect on CDL disqualification	None — occupational license does not lift CDL disqualification	Restored only when disqualification period ends and requirements are met
Bottom line: An occupational license operates in a different legal space than a CDL. State courts can modify ordinary driving privileges. They cannot override the federal commercial driver disqualification framework.		

9.7 The Practical Reality: Driving to Work vs. Driving at Work

Perhaps the most concise way to explain the occupational license limitation to a CDL driver is this: the occupational license might let you drive to work. It will not let you drive at work.

A driver who obtains an occupational license and whose carrier offers a temporary non-driving role can use that license to commute. They can drive their personal truck to the terminal, clock in, and perform dispatching, loading coordination, or administrative duties. The license allows the commute. Federal

disqualification prevents the commercial driving that is the point of the job.

For long-haul drivers who live far from any terminal, the occupational license may not even address the commute problem in a meaningful way. For owner-operators who have no non-driving duties to perform, it offers essentially nothing professionally. The value of an occupational license to a CDL driver depends entirely on their specific circumstances and what non-driving activities remain available to them during the disqualification period.

A driver obtains an occupational license after her CDL is disqualified. Her carrier offers her a temporary position coordinating dispatch from the yard office.

With the occupational license, she can drive her personal vehicle to the office. She works at a desk. She stays employed. She maintains her relationship with the carrier.

When her disqualification period ends, she passes the required clearances and returns to commercial driving. The occupational license did not save her career. It helped her survive the gap.

Not every driver is offered this option. But for those who are, the occupational license is the difference between maintaining employment continuity and starting over.

9.8 Can an Employer Work Around the Restriction?

When a driver's CDL is disqualified, some drivers ask whether their employer can simply "allow" them to drive anyway, on the theory that it is a private arrangement between the driver and the company. The answer is no, and the consequences of attempting it are serious for both the driver and the carrier.

Federal regulations prohibit carriers from knowingly allowing a disqualified driver to operate a commercial motor vehicle. A carrier that does so faces regulatory sanctions including fines and potential impacts on its safety rating. A driver who operates a commercial vehicle while disqualified faces additional violations that could extend the disqualification period, add to the criminal record, and in serious cases result in significant penalties.

There is no private contractual arrangement that overrides federal disqualification. An employer cannot grant permission that federal law denies. The disqualification is not a company policy—it is a legal status imposed by federal regulation, and it applies regardless of what the employer prefers.

CAN MY EMPLOYER LET ME DRIVE ANYWAY?

No. Federal CDL disqualification is a legal status imposed by FMCSA regulations. Employers cannot waive it, work around it, or grant permission that overrides it.

A carrier that knowingly allows a disqualified driver to operate a commercial vehicle faces regulatory sanctions and potential liability exposure. The driver faces additional legal violations.

There is no version of employer permission that makes it legal to drive commercially during a CDL disqualification period. Any arrangement to do so puts both the driver and the carrier at risk.

Questions to Ask Before Applying for an Occupational License

CDL drivers considering an occupational license application should work through these questions with their attorney before filing. Understanding the answers in advance avoids disappointment and helps the application—if pursued—serve its appropriate and realistic purpose.

QUESTIONS CDL DRIVERS SHOULD ASK BEFORE APPLYING FOR AN OCCUPATIONAL LICENSE

Is my regular driver's license actually suspended, or only my CDL?

These are separate. If only the CDL was disqualified, you may retain regular driving privileges without needing an occupational license at all. Confirm the status of both before applying.

Will this license allow me to operate a commercial motor vehicle?

No. This must be clearly understood before applying. An occupational license cannot restore commercial driving privileges during a CDL disqualification period, regardless of how the petition is framed.

What specific purposes do I need the license for?

Courts grant occupational licenses for defined essential needs. Be prepared to document and demonstrate those needs specifically—commuting to work, attending required programs, household necessities.

Do I have an SR-22 insurance certificate in place?

Proof of financial responsibility is required for the application. Without it, the petition cannot proceed.

Are there prior violations on my record that may affect the petition?

Courts review driving records before granting occupational licenses. Prior alcohol-related violations may complicate the process. Your attorney can help you assess what the record shows and how to address it.

Does my employer offer any non-driving role during the disqualification period?

If so, an occupational license may allow you to commute and maintain employment continuity. Understanding this option before applying helps clarify whether the license serves a practical purpose in your situation.

Closing Thoughts

The occupational license question reflects a broader truth about CDL DWI cases: the tools available to ordinary drivers do not translate directly to commercial drivers, because commercial drivers operate within a regulatory framework that ordinary drivers do not. State law offers relief that state courts can grant. Federal CDL disqualification is beyond the reach of those courts.

This chapter delivers a difficult message, and there is no way to soften it without being dishonest about the law. An occupational license may help a CDL driver manage the personal vehicle side of a suspension. It will not allow commercial driving. And commercial driving is, for most CDL drivers, what the entire situation is about.

The most effective response to a CDL disqualification is not to look for workarounds that do not exist. It is to fight the underlying case as effectively as possible—to contest the ALR suspension, to challenge the evidence in the criminal case, and to work toward a resolution that avoids the conviction triggering the disqualification in the first place. That is what the next chapter is about.

Frequently Asked Questions

Can I drive a commercial truck with an occupational license?

No. An occupational license is a state court order that can restore limited personal driving privileges. It cannot override federal CDL disqualification requirements, which prohibit operating a commercial motor vehicle during the disqualification period. A Texas court has no authority to waive federal CDL regulations through an occupational license order.

Can I drive my personal vehicle if my CDL is disqualified?

It depends on whether your regular driver's license was also suspended. CDL disqualification removes commercial driving privileges specifically. If the ALR process also resulted in a suspension of your regular license, an occupational license may restore limited personal driving privileges. If only the CDL was disqualified and your regular license remains valid, you may be able to drive a personal vehicle without an occupational license. An attorney can clarify which situation applies in your case.

Can my employer let me drive commercially anyway if they need me?

No. Federal regulations prohibit carriers from knowingly allowing a disqualified driver to operate a commercial motor vehicle. The disqualification is a legal status imposed by FMCSA regulations, not a company policy that an employer can override. A carrier that does so faces regulatory sanctions. A driver who operates a CMV while disqualified faces additional violations. There is no employer permission that makes it legal.

How do I apply for an occupational license in Texas?

You file a petition with the appropriate court—typically the county court at law in your county of residence. The petition must establish an essential need for driving, and you must provide proof of financial responsibility in the form of an SR-22 insurance certificate and a copy of your driving record. The court reviews the petition and, if approved, issues an order specifying the permitted driving purposes, hours, and locations. That order is then presented to the Texas DPS to obtain the actual license document.

Will an occupational license allow me to keep my trucking job?

Not directly—it will not restore your commercial driving privileges. Whether it helps you maintain your employment depends on whether your carrier offers a temporary non-driving role you can perform during the disqualification period. If so, the occupational license may allow you to commute and maintain an employment relationship with the carrier. If there is no non-driving role available, the license offers limited professional benefit.

Can CDL drivers receive the same license relief as regular drivers?

For personal vehicle driving, the occupational license framework available to regular drivers is also available to CDL drivers whose regular license was suspended. For commercial driving, the answer is no—federal CDL regulations impose disqualification requirements that state courts cannot modify. CDL drivers face additional restrictions because they are subject to both state licensing law and federal transportation regulations.

Does an occupational license remove CDL disqualification?

No. CDL disqualification and the regular driver's license suspension are separate matters governed by separate legal systems. An occupational license can address the regular license suspension. It has no effect on the CDL disqualification, which is governed by federal FMCSA regulations and can only be resolved through the expiration of the disqualification period or, in the case of a lifetime ban, through the federal reinstatement process.

Why are CDL drivers treated differently from regular drivers under licensing law?

Because commercial drivers are subject to a federal regulatory framework—administered by the FMCSA—that imposes uniform, mandatory standards across all states. Congress and the FMCSA designed CDL disqualification to be consistent and non-discretionary precisely to prevent the kind of state-by-state variation that might otherwise allow a driver in one state to receive relief that a driver in another state could not. The stricter treatment reflects the heightened public safety responsibilities that come with operating commercial vehicles.

CHAPTER 10

COMMON WEAKNESSES IN DWI CASES

When a client walks into my office after a CDL DWI arrest, one of the first things I hear is some version of the same statement: “I failed the breath test. The officer has it all on video. I don’t see how we fight this.”

I understand why people feel that way. A DWI arrest is designed to feel like the end of the road. The officer was confident. The paperwork is thorough. The numbers are in a report with an official seal. And for a commercial driver, the stakes are even higher — not just a criminal charge, but a career hanging by a thread.

But here is what I tell every client at the beginning of this conversation: a DWI case is not decided at the side of the road. It is decided by examining everything that happened at the side of the road.

DWI investigations involve multiple steps, and each step must follow specific legal and procedural rules. The traffic stop must be legally justified. The field sobriety tests must be administered correctly. The chemical testing must follow established protocols. The documentation must accurately reflect what

occurred. When any of those steps are flawed — and flaws occur more often than people realize — those issues become part of the defense.

This chapter is about understanding where DWI cases can break down, and why that matters for CDL drivers in particular.

Why DWI Cases Are Rarely Airtight

10.1 Why DWI Cases Are Not Always as Simple as They Appear

Most people assume that a DWI case is simple. An officer observed a driver. The officer conducted an investigation. The investigation produced evidence. That evidence proves the case. End of story.

That assumption misunderstands how DWI prosecutions actually work.

A DWI investigation is a chain of events, and every link in that chain is subject to scrutiny. The first question I ask when reviewing a new DWI case is not “What did the test say?” The first question is: “How did this investigation begin, and did every step that followed meet the legal standard?”

If the traffic stop was not legally justified, evidence gathered from that stop may be challenged. If the field sobriety tests were administered improperly, their results may be called into question. If the video record contradicts the written report, that contradiction matters. If the timing of the alcohol test creates questions about the accuracy of the BAC reading, those questions belong in front of a judge or jury.

For CDL drivers, every one of these issues carries added weight. The consequences of a DWI conviction extend far

beyond fines and court dates. A CDL disqualification can end a career. That reality means there is every reason to examine the investigation carefully and to hold the government to its burden of proof at every stage.

WHERE DWI CASES CAN BREAK DOWN

A DWI investigation is not a single event — it is a sequence of steps, each governed by legal standards.

Problems can occur at any stage:

- The traffic stop (Was there reasonable suspicion?)
- Field sobriety testing (Were proper procedures followed?)
- Chemical testing (Was the timing and procedure correct?)
- Evidence documentation (Does the report accurately reflect what happened?)

Experienced defense attorneys examine every stage of the investigation, not just the final test result.

Illegal Stops

10.2 The Legal Requirement for a Traffic Stop

Every DWI investigation begins the same way: with a traffic stop. And before that stop can occur, the law imposes a threshold requirement that is often overlooked.

Under the Fourth Amendment, a police officer cannot stop a vehicle without reasonable suspicion. That term has a precise legal meaning. Reasonable suspicion requires that the officer be able to point to specific, articulable facts suggesting that a traffic violation or criminal activity has occurred or is occurring. A hunch is not sufficient. Generalized suspicion is not sufficient. The officer must be able to identify concrete observations that justify the stop.

Common bases for a lawful traffic stop include speeding, failure to maintain a lane, running a traffic control device, equipment violations such as a broken taillight or expired registration, and erratic driving behavior that reasonably suggests impairment. Each of these provides an objective, observable foundation for initiating a stop.

When a case reaches court, judges carefully evaluate whether the officer's stated reasons for the stop satisfy the reasonable suspicion standard. If the stop cannot be justified, the consequences for the prosecution can be severe. Evidence gathered as a result of an unlawful stop may be subject to suppression — effectively removed from the case entirely.

This is why I begin every DWI case review by asking a single foundational question: why did the officer stop this vehicle?

WHAT IS REASONABLE SUSPICION?

Before police can stop a vehicle, they must have reasonable suspicion — specific, articulable facts suggesting that a traffic violation or criminal activity has occurred.

Examples of lawful bases for a stop include:

- Speeding or reckless driving
- Drifting between lanes or weaving
- Running a traffic signal or stop sign
- Equipment violations such as a broken taillight
- Erratic driving behavior

A general belief that something “looked off” is not sufficient. The officer must be able to identify specific facts that justified stopping the vehicle.

This is why the traffic stop itself is often the first issue examined in a DWI defense.

10.3 When a Stop May Be Considered Illegal

In practice, the justification for a traffic stop is not always as solid as it appears in a written report. Officers are trained to document stops in language that supports their observations, but the written account does not always tell the whole story.

Consider a scenario where an officer states in his report that the vehicle was weaving within its lane — a common basis for initiating a DWI investigation. That description, standing alone, sounds like a legitimate reasonable suspicion finding. But when the dashcam footage is reviewed, the vehicle is traveling in a perfectly straight line, well within the lane boundaries. What appeared in the report as a justification for the stop is contradicted by the objective record.

This kind of discrepancy is more common than most people realize. Officers are human. Observations made in low-light conditions, at roadside, while managing competing demands, are not always perfectly accurate. Sometimes the written record exaggerates what was observed. Sometimes it reflects a good-faith mistake. And sometimes the stop simply was not legally justified, regardless of how it is characterized.

Because the traffic stop is the starting point of the entire investigation, it is typically the first place I look when reviewing a new CDL DWI case. If the stop cannot survive scrutiny, everything that followed it may be vulnerable. That is a powerful position for the defense.

Improper Testing

10.4 Field Sobriety Tests and Their Limitations

After stopping a driver, officers typically ask the driver to step out of the vehicle and perform field sobriety tests. These

standardized tests are designed to help officers evaluate whether a driver may be impaired. They are also one of the most commonly challenged elements of DWI evidence.

The three standard field sobriety tests recognized by the National Highway Traffic Safety Administration are the horizontal gaze nystagmus test, the walk-and-turn test, and the one-leg stand test. Each test has specific procedural requirements — instructions that must be given in a particular way, conditions that must be met, and scoring criteria that must be applied consistently.

The problem is that roadside conditions rarely approximate the conditions under which these tests were developed and validated. Uneven pavement, traffic noise, flashing emergency lights, darkness, unfamiliar footwear, and the stress of a police encounter all affect performance in ways that have nothing to do with alcohol. The tests were designed to be administered on a level, well-lit surface with clear instructions and adequate time. Most traffic stops at the side of a Texas highway at night do not meet those conditions.

In my experience, field sobriety test results are among the most frequently misinterpreted evidence in DWI cases. Officers receive training in administering these tests, but that training does not always translate to perfect execution in the field. And even when the tests are administered perfectly, factors entirely unrelated to impairment can affect the results in ways that are not obvious to a jury unless they are carefully explained.

ARE FIELD SOBRIETY TESTS ALWAYS ACCURATE?

Field sobriety tests are standardized tools designed to help officers assess possible impairment. But they are not infallible.

Performance can be affected by many factors unrelated to alcohol, including:

- Fatigue or illness
- Nervousness or anxiety
- Uneven or wet pavement
- Poor or distracting lighting
- Medical conditions affecting balance or coordination
- Footwear (high heels, work boots, sandals)

Even completely sober individuals sometimes perform poorly under roadside conditions.

Because of these variables, field sobriety test results are always examined carefully in CDL DWI cases — where the stakes of an incorrect result are especially high.

10.5 Common Field Sobriety Test Errors

Field sobriety tests are only as reliable as the procedures used to conduct them. When those procedures are not followed correctly, the results may not accurately reflect the driver's actual condition.

Some of the most common field sobriety test errors I see in reviewing CDL DWI cases include:

- Instructions that were unclear or incomplete, leaving the driver uncertain about what was required
- Tests conducted on uneven, cracked, or sloped pavement that affected balance and performance
- Failure to ask the driver about medical conditions, injuries, or physical limitations before administering the tests
- Distractions from passing traffic, flashing lights, or other environmental factors that interfered with the driver's concentration
- Scoring errors or inconsistencies in how officer observations were recorded

None of these errors necessarily means that the driver was not impaired. But each of them may cast doubt on whether

the test results accurately measure impairment rather than measuring the driver's reaction to difficult conditions.

For CDL drivers, this analysis is particularly important. Commercial drivers are physically and mentally experienced with demanding conditions. A driver who stumbles slightly on sloped gravel while being watched by a uniformed officer with emergency lights flashing is not necessarily demonstrating impairment. That is what a careful defense examination is designed to show.

Angela has been driving a semi for eleven years. She has a clean record and has never had a DWI.

She is stopped late one evening after her truck is flagged for a broken marker light. The officer asks her to step out and perform field sobriety tests.

The stop is on the shoulder of a busy highway. Traffic is passing continuously. Emergency lights are flashing behind her. The pavement is cracked and sloped toward the drainage ditch. Angela is wearing steel-toed work boots.

She struggles with the walk-and-turn test. Her balance during the one-leg stand is unsteady.

When I review the dashcam footage with Angela weeks later, we go through the scene frame by frame. The surface she was tested on is visibly uneven. At several points during the test, she flinches as trucks pass at highway speed just feet away.

The officer's report notes that she "showed multiple indicators of impairment." The video tells a more complicated story.

Video Contradictions

10.6 The Role of Dashcam and Bodycam Footage

One of the most significant changes in DWI defense over the past fifteen years has been the expansion of video evidence. Most modern patrol vehicles are equipped with dashboard cameras that begin recording when emergency lights are activated. Many agencies also require officers to wear body cameras that capture interactions at close range throughout the stop.

This video record can be enormously valuable – in both directions. It can confirm exactly what the officer described in the written report. It can also reveal that the written account was incomplete, exaggerated, or in some cases directly contradicted by what the camera captured.

As a defense attorney, I always request the complete video record in a DWI case. I review it carefully and compare it to the written report, the officer’s testimony, and the official documentation of the investigation. In a meaningful number of cases, there are discrepancies worth examining.

For CDL drivers, video evidence is particularly important because commercial driving involves precise observation of behavior. A long-haul driver’s driving patterns, physical condition, and interaction with law enforcement often look very different on camera than they do when filtered through a written report prepared hours after the stop.

CAN DASHCAM VIDEO HELP A CDL DWI CASE?

Dashcam and bodycam recordings provide an objective record of the traffic stop that written reports cannot fully capture.

Video footage can document:

- The driving behavior that preceded the stop
- Whether the stated basis for the stop is visible in the footage
- The conditions under which field sobriety tests were conducted
- The driver's appearance, speech, and demeanor throughout the encounter
- The officer's instructions and how tests were administered

Attorneys routinely request and review all available video in CDL DWI cases. The footage sometimes provides context that significantly changes the picture painted by the written report.

10.7 When Video Evidence Conflicts with Police Reports

Written police reports are drafted by human beings, often hours after an arrest, from memory and notes made during a stressful encounter. They reflect the officer's perception and interpretation of events. They are not always perfectly accurate — and when video footage is available, discrepancies sometimes emerge.

Some common examples of conflicts between video records and written reports include:

- A report stating that the driver had slurred speech, while the video clearly captures normal, articulate conversation throughout the stop
- A report describing the driver as unsteady on his feet, while bodycam footage shows the driver walking and standing normally
- A report stating that the vehicle was weaving between lanes, while the dashcam shows it traveling in a consistent straight line
- A report characterizing the driver as agitated or combative, while the video shows a calm, cooperative interaction

When I find these discrepancies, they become a central part of the defense analysis. Juries are instructed to evaluate the credibility of witnesses, including law enforcement officers. When an officer's written account does not match the objective video record, that mismatch raises questions about the accuracy of everything else in the report.

This is not about suggesting that officers lie. It is about the reality that memory is imperfect, perception is subjective, and written reports are not always a complete or perfectly accurate account of what a camera recorded. For a CDL driver whose career depends on the outcome of the case, those imperfections are worth examining.

Rising BAC

10.8 How Alcohol Is Absorbed in the Body

To understand one of the most frequently misunderstood aspects of DWI cases, it is necessary to understand basic alcohol physiology. The relationship between drinking and blood alcohol concentration is not as simple as most people assume – and the gap between what people assume and what the science shows is exactly where a significant defense issue often exists.

When a person consumes alcohol, the alcohol is not immediately absorbed into the bloodstream. It must first pass through the stomach and small intestine. The rate of absorption depends on a number of variables, including the type and amount of alcohol consumed, whether the person has eaten recently, the individual's body weight and metabolism, and whether the person is still consuming alcohol or has stopped.

The critical fact is this: absorption takes time. A person who finishes their last drink at 9:00 p.m. may not reach their peak blood alcohol concentration until 9:30 or 10:00 p.m., or later. The BAC level at 9:05 p.m. may be meaningfully lower than the BAC level an hour later, even though the person has consumed nothing additional during that time.

For DWI purposes, this timing difference matters enormously. The question the law is asking is not what the driver's BAC was at the time of testing. It is what the driver's BAC was at the time of driving.

WHAT IS RISING BAC?

Rising BAC refers to the physiological process in which blood alcohol concentration continues to increase after a person stops drinking.

Because alcohol is absorbed gradually through the digestive system, a driver's BAC may be significantly lower while operating a vehicle than it is when tested an hour or more later at a police station or hospital.

The timing gap between driving and testing is the key issue. In cases where that gap is significant — and where the driver's consumption occurred shortly before or during driving — the rising BAC concept can become an important element of the defense.

10.9 The Concept of Rising BAC

The rising BAC defense is not a technicality or a loophole. It is a direct challenge to the accuracy of the evidence as applied to the legal question the prosecution must prove.

Texas DWI law does not require proof that a driver had a BAC above 0.08 at the time of testing. It requires proof of intoxication — whether from alcohol or another substance — at the

time of operation. For commercial drivers, the standard is even lower: a BAC of 0.04 or above while operating a commercial motor vehicle. The testing, however, almost always occurs after the driving has stopped – sometimes substantially after.

If alcohol was still being absorbed into the bloodstream when the driver was stopped, the BAC measured at the time of the test may overstate the BAC at the time of driving. Depending on the timing of consumption, the size of the gap between the stop and the test, and the individual's absorption rate, this difference can be meaningful.

Establishing a rising BAC defense typically requires forensic toxicology expertise. A qualified toxicologist can review the timing of consumption, the amounts involved, the physiological variables, and the gap between driving and testing, and offer an opinion about what the driver's BAC was likely to have been at the time the vehicle was in operation. This kind of expert analysis can directly address the core element the prosecution must prove.

Kevin drives for a regional carrier and has held his CDL for nearly two decades. On a Saturday evening, he has dinner with his wife at a restaurant near their home. Over the course of a two-hour meal, he drinks two beers with dinner. He finishes his last drink at approximately 8:45 p.m.

He and his wife leave the restaurant at 9:00 p.m. He is driving their personal truck.

At approximately 9:10 p.m. – roughly twenty-five minutes after finishing his last drink – he is stopped by a patrol officer for what the report will later describe as traveling slightly over the posted speed limit.

A breath test is administered at 10:05 p.m., almost an hour after the stop. The result reads 0.09.

Kevin is arrested for DWI. He immediately contacts his attorney.

When a forensic toxicologist reviews the case, she notes that Kevin's alcohol consumption concluded approximately eighty minutes before the test was administered. Given his body weight, the amount consumed, and the presence of food in his stomach from the restaurant meal, the toxicologist offers her opinion that his BAC at the time of driving was likely at or below the legal limit for non-commercial drivers – and below the 0.04 federal threshold for CDL purposes.

Kevin's case does not end at the roadside. It begins there.

Key Takeaway

10.10 Key Takeaway: DWI Investigations

Must Follow Proper Procedures

A DWI arrest is designed to feel conclusive. The officer was trained. The tests were administered. The paperwork was completed. The number on the report looks authoritative. For a CDL driver facing both criminal consequences and career consequences, the pressure to simply accept the outcome and move on can be significant.

This chapter exists to push back on that assumption.

DWI investigations involve many steps, and every step must follow legal and procedural standards. The traffic stop must be constitutionally justified. Field sobriety tests must be properly administered under proper conditions. Video evidence must be reviewed and compared to written accounts. The timing of

chemical testing must be analyzed in light of what we know about alcohol absorption.

When these standards are not met – and in my experience, they are not always met – the resulting evidence is not automatically reliable. The prosecution’s case is not decided by the arrest. It is decided by how well the evidence survives careful, informed scrutiny.

For a CDL driver, the decision to examine every aspect of a DWI investigation is not just about the criminal case. It is about preserving a license, a livelihood, and a career that may have taken years or decades to build. That is worth fighting for. And that fight starts with understanding exactly where DWI cases can break down.

Where DWI Cases Can Break Down

TRAFFIC STOP

The officer stops the vehicle based on observed behavior or a reported violation. The stop must be supported by reasonable suspicion. Without it, evidence gathered afterward may be suppressed.

FIELD SOBRIETY TESTING

The driver is asked to perform standardized roadside tests. Each test has specific procedural requirements. Environmental conditions, physical factors, and testing errors can affect results.

CHEMICAL TESTING

A breath or blood test is administered, typically well after the traffic stop. The timing gap between driving and testing creates the potential for rising BAC issues.

EVIDENCE DOCUMENTATION

Officers prepare written reports and record their observations. These reports may not always accurately reflect what dashcam and bodycam footage actually captured.

Checklist

10.11 Checklist: What Attorneys Examine in a CDL DWI Case

When I begin reviewing a new CDL DWI case, I work through a consistent set of questions designed to identify every potential weakness in the government's case. The following checklist reflects that process.

EVIDENCE REVIEW CHECKLIST FOR CDL DWI CASES

- ✓ Legality of the traffic stop — Was there reasonable suspicion? Are the stated observations supported by the video record?
- ✓ Officer's stated basis for the stop — What specific behavior or violation was observed? Is it documented consistently across the report, affidavit, and testimony?
- ✓ Field sobriety test conditions — What surface was used? Was lighting adequate? Were there distracting environmental factors?
- ✓ Field sobriety test administration — Were instructions given correctly? Did the officer follow standardized scoring criteria?
- ✓ Driver's physical characteristics — Were any medical conditions, injuries, or physical limitations noted or asked about?
- ✓ Video evidence review — Does dashcam or bodycam footage support the written report, or does it raise questions?
- ✓ Discrepancies between reports and video — Are there observable differences in how speech, balance, or behavior are described versus what the camera shows?

- ✓ BAC testing timing — How long after the traffic stop was the test administered? Was alcohol consumption recent?
- ✓ Rising BAC analysis — Are there grounds to retain a forensic toxicologist to analyze the driver’s BAC at the time of driving?
- ✓ CDL-specific consequences — Has the impact on federal CDL disqualification been evaluated separately from the criminal case?

Frequently Asked Questions

10.12 Frequently Asked Questions

If I failed the breath test, does that mean my case is unwinnable?

No. A breath test result is one piece of evidence in a broader investigation that must be examined for legal and procedural compliance at every stage. The legality of the stop, the administration of field sobriety tests, the timing of the chemical test, and the accuracy of the written reports are all subject to review. Many DWI cases involving positive test results are successfully challenged.

What is reasonable suspicion and why does it matter?

Reasonable suspicion is the legal standard an officer must meet before initiating a traffic stop. It requires specific, articulable facts suggesting a traffic violation or criminal activity — not a general sense that something was wrong. If the stop cannot be justified by reasonable suspicion, evidence obtained during the investigation may be subject to suppression.

Can a CDL DWI case be challenged if the traffic stop appears legal?

Yes. The legality of the stop is one issue among many. Even if the stop itself was properly justified, subsequent steps — field

sobriety test administration, chemical testing procedures, documentation accuracy — remain subject to examination. A stop that was legally valid does not immunize the rest of the investigation from scrutiny.

Are field sobriety tests required?

Drivers are often asked to perform field sobriety tests but are generally not legally required to do so. Declining may have its own consequences, depending on the circumstances. Whether or how to perform these tests is a decision worth discussing with an attorney before or immediately after any police encounter.

Do police always record traffic stops?

Most law enforcement agencies use dash cameras and body cameras, but recording policies vary. Some agencies have gaps in coverage due to equipment issues, policy inconsistencies, or the location of the stop. When video exists, it should always be obtained and reviewed.

What is the significance of video that contradicts a police report?

When video footage shows something materially different from what was written in the officer's report, that discrepancy goes directly to the credibility of the evidence. Juries evaluate witnesses based on the reliability of their accounts. A written report that conflicts with objective video raises legitimate questions about the accuracy of everything else the officer documented.

What is rising BAC and how does it affect a DWI case?

Rising BAC refers to the physiological process in which blood alcohol concentration continues to increase after a

person stops drinking, as alcohol is gradually absorbed. If a driver's BAC was still rising at the time of the traffic stop, the test administered later may reflect a higher level than was present while the vehicle was in operation. Forensic toxicology analysis can help evaluate whether this issue applies in a specific case.

Why does the timing of a BAC test matter for CDL drivers specifically?

The federal threshold for CDL disqualification is 0.04 – half the standard 0.08 threshold. The timing gap between driving and testing is therefore more significant for commercial drivers. A BAC that rises from 0.03 at the time of driving to 0.05 by the time of testing crosses the CDL threshold even though the driver was below it while operating the vehicle. Timing analysis is a standard part of CDL DWI defense.

Why do attorneys review every stage of a DWI investigation?

Because the prosecution must prove every element of a DWI charge beyond a reasonable doubt. That burden applies to the legality of the stop, the accuracy of the testing, the reliability of the documentation, and the science underlying the evidence. Reviewing every stage of the investigation is how defense attorneys identify where that burden has not been fully met.

CHAPTER 11

STRATEGIES TO PROTECT YOUR CDL

By the time a CDL driver walks into my office after a DWI arrest, the question is almost always the same: “Am I going to lose my CDL?”

It is the right question to be asking. For a commercial driver, a DWI conviction does not carry only criminal consequences. It carries career consequences. Federal regulations impose mandatory CDL disqualification for certain convictions, and those penalties apply whether the driver was operating a commercial vehicle or a personal one. A conviction that costs a non-commercial driver a fine and probation can cost a truck driver or bus driver their livelihood.

This is why defense strategy in CDL DWI cases is not simply about fighting a criminal charge. It is about protecting a career. Every decision made during the defense process — what evidence to challenge, what motions to file, whether to negotiate and on what terms, whether to take a case to trial — must be evaluated not only against the criminal outcome, but against the CDL consequences that flow from that outcome.

Many CDL drivers arrive at the defense table assuming the case is already decided. I want to push back on that assumption directly. A DWI case is not concluded by the arrest. It is concluded by a careful examination of every step in the investigation, a clear-eyed analysis of where the evidence holds and where it does not, and a strategic approach to the proceedings that keeps the CDL consequences front and center throughout.

This chapter walks through the core strategies I use when defending CDL drivers.

Why the Stakes Are Different

11.1 Why Defense Strategy Matters for CDL Drivers

The consequences of a DWI conviction fall harder on commercial drivers than on any other category of defendant. That reality shapes every decision in the defense of a CDL DWI case.

Under federal regulations administered by the Federal Motor Carrier Safety Administration, a CDL holder convicted of DWI — whether in a commercial vehicle or a personal one — faces mandatory disqualification. A first offense results in a one-year disqualification minimum. A second offense results in lifetime disqualification, with limited reinstatement available only in certain circumstances after ten years. For a driver who has built a career around a commercial license, these are not abstract legal consequences. They are the difference between working and not working.

The goal of defense strategy in CDL cases is therefore specific: avoid convictions that trigger disqualification whenever possible, and minimize the consequences of those that cannot be avoided. Every other objective — suppressing evidence,

challenging procedures, negotiating with prosecutors — serves that central goal.

Robert has spent nearly twenty years behind the wheel. He started as a local delivery driver, earned his CDL at twenty-three, and has held it without interruption ever since. His record is clean.

One evening, driving home from dinner with his wife in his personal truck, he is stopped at a checkpoint. He performs the field sobriety tests. He is arrested.

When he arrives at my office two days later, he is not worried about jail time. He is worried about his CDL. His family's mortgage, his health insurance, his retirement — all of it is tied to his ability to keep driving.

That is where the defense analysis begins. Not with "How do we beat this?" but with "What does the investigation actually show, and where does the government's case have problems?"

Challenging the Traffic Stop

11.2 Examining the Legality of the Stop

Every DWI investigation begins with a traffic stop, and the traffic stop is the first place I look when reviewing a new CDL DWI case. Under the Fourth Amendment, an officer must have reasonable suspicion — specific, articulable facts suggesting a traffic violation or criminal activity — before stopping a vehicle. That requirement is not a formality. It is a constitutional threshold, and when it is not met, the evidence that flows from the stop may be subject to suppression.

To evaluate the legality of a stop, I review the officer's written report to understand what was claimed as the basis for initiating the stop. I then compare that account against every available video record — dashcam, bodycam, and any other recordings from the area. I look at whether the behavior described in the report is visible in the footage, whether the officer's description is consistent with other documentation, and whether the stated basis is the kind of specific observation that satisfies the reasonable suspicion standard.

When discrepancies exist between the written account and the objective record, that is where the defense begins to find traction.

WHAT DEFENSE ATTORNEYS REVIEW FIRST

The traffic stop is the foundation of a DWI case. Before examining anything else, I want to understand:

- What specific behavior or violation did the officer claim as the basis for the stop?
- Is that behavior documented consistently across the report, the affidavit, and any subsequent testimony?
- Does dashcam footage show what the report describes — or something different?

If the legal justification for the stop cannot withstand scrutiny, everything that followed it may be vulnerable.

11.3 When an Illegal Stop Can Affect the Case

The legal doctrine that governs an unlawful traffic stop is the exclusionary rule. Under this principle, evidence obtained as a result of a Fourth Amendment violation may be suppressed — excluded from use at trial. In a DWI case, suppression of the stop can be devastating to the prosecution, because virtually all of the government's evidence was gathered after the stop occurred.

Field sobriety test results, breath or blood test results, officer observations about the driver's appearance and demeanor, statements made during the stop — all of it was obtained because of the traffic stop. If that stop was not legally justified, a motion to suppress may seek to exclude all of it.

Not every suppression motion succeeds, and courts apply the reasonable suspicion standard with some deference to officer judgment in the field. But when the stated basis for the stop is directly contradicted by available evidence — particularly video — the motion becomes a serious argument, and prosecutors know it.

David is a commercial driver with a regional carrier. He is stopped late on a Tuesday night. The officer's report states that the vehicle was weaving between lanes and nearly struck a highway median barrier.

When we obtain the dashcam footage, David's truck is traveling steadily within its lane for the full two minutes of footage before the emergency lights appear. The truck does not cross a lane line. It does not approach the barrier.

We file a motion to suppress on the grounds that the stated basis for the stop is directly contradicted by the video record. The motion creates a significant issue for the prosecution — one that changes the negotiation dynamic considerably.

Challenging Test Results

11.4 Questioning Field Sobriety Test Reliability

Field sobriety tests are a standard part of roadside DWI investigations, and they are also among the most challengeable evidence in DWI cases. The three standardized

tests – horizontal gaze nystagmus, walk-and-turn, and one-leg stand – require specific administration procedures, and those procedures are not always followed correctly.

More fundamentally, these tests were developed and validated under controlled conditions. When they are administered on the sloped gravel shoulder of a Texas highway at midnight, with eighteen-wheelers passing at speed and emergency lights strobing behind the driver, the conditions bear little resemblance to the environment the tests were designed for. For a commercial driver accustomed to physical demands, fatigue is a real factor. For a driver with a knee injury, a back problem, or balance-affecting medication, the test results may reflect the condition rather than impairment.

When I review field sobriety test evidence, I look at the surface conditions, the lighting, the environmental distractions, whether the officer asked about physical limitations, whether the instructions were given correctly, and whether the scoring was documented consistently. Any of these can affect the weight a judge or jury gives to the results.

11.5 Challenging Breath and Blood Test Evidence

Chemical test results carry real weight in DWI prosecutions. Juries tend to trust numbers produced by machines, and prosecutors know it. But the number on a lab report is not the end of the analysis. It is the result of a process, and every step of that process must meet legal and scientific standards.

For breath tests, I examine the calibration and maintenance records of the testing device, the qualifications of the operator, whether the testing protocol was followed correctly, and the timing of the test relative to when the driver was operating

the vehicle. For blood tests, I look at chain of custody, sample storage and preservation, laboratory procedures, and the qualifications of the analyst.

The rising BAC issue — discussed in detail in Chapter 10 — is especially relevant for CDL drivers because the federal threshold is 0.04, not 0.08. A driver whose BAC was still rising at the time of the stop may test above 0.04 an hour later even though the level was below it while the vehicle was in operation. When the timing gap between driving and testing is significant, a forensic toxicologist may be able to provide meaningful analysis of what the BAC was likely to have been at the relevant time.

WHY CHEMICAL TEST RESULTS ARE NOT ALWAYS THE LAST WORD

Breath and blood test results must survive examination at every stage of the process that produced them:

- Breath test machines require regular calibration and maintenance. Records showing lapses may call results into question.
- Blood samples must be properly drawn, stored, and preserved. Chain of custody gaps can affect admissibility.
- The timing of chemical testing matters. A test administered well after the stop may not accurately reflect the BAC at the time of driving.
- For CDL drivers, the 0.04 threshold means that even modest timing errors in analysis can have significant consequences.

Every step in the testing process is subject to review.

Attacking Officer Credibility

11.6 Examining Police Reports and Testimony

Police reports are drafted by human beings, typically hours after an arrest, from memory and shorthand notes taken in the

field. They reflect the officer's perception and interpretation of events – filtered through training, expectation, and the inherent limitations of memory under stress. They are important evidence, but they are not objective records.

When I review a police report in a DWI case, I read it not as a summary of what happened, but as a document to be tested against every other piece of available evidence. I compare it to the dashcam footage, the bodycam footage, any witness observations, the medical records if a blood draw is involved, and the driver's own account of events. When the report holds up under that comparison, it is harder to challenge. When it does not, the inconsistencies become part of the defense.

Officer credibility is not about accusing anyone of dishonesty. It is about holding the government to the same standards of accuracy it demands from defendants. When a written account does not match the objective record, a jury is entitled to draw conclusions from that discrepancy – and they often do.

11.7 Using Video Evidence to Evaluate Officer Observations

Video has changed DWI defense more than any other development in the past two decades. When a traffic stop is captured on dashcam and bodycam, the investigation is no longer a matter of the officer's word against the driver's. There is a record. And that record does not always match the report.

I have reviewed dashcam footage in cases where the report described a driver whose speech was slurred and whose balance was clearly impaired – and watched the driver on video speaking clearly, walking steadily, and engaging calmly with the officer throughout the encounter. I have seen reports

describing near-collisions that the camera did not capture. I have seen field sobriety test instructions given in ways that differed meaningfully from the standardized procedure the officer claimed to have followed.

I request the complete video record in every CDL DWI case. I review it alongside the written report, section by section. When the two accounts diverge, that divergence tells me something important about the strength of the prosecution’s case — and about where the defense has the most traction.

WHY VIDEO EVIDENCE CAN CHANGE A CASE

Dashcam and bodycam footage provides a record that written reports cannot replicate. When I review video in a CDL DWI case, I am specifically looking for:

- Whether the driving behavior described in the report is visible on camera
- Whether the driver’s speech and demeanor match the officer’s written descriptions
- Whether field sobriety test instructions were given correctly and completely
- Whether the testing conditions — surface, lighting, environment — match the officer’s characterization

When the video and the report tell different stories, that difference becomes a central issue in the case.

Negotiating Charge Reductions

11.8 Why Negotiations Sometimes Occur in DWI Cases

Not every DWI case goes to trial. In Texas, as in every jurisdiction, the large majority of criminal cases are resolved through negotiation between the defense and the prosecution.

That does not mean the defense simply accepts whatever the government offers. It means that both sides evaluate the strength of the evidence and the viability of legal challenges, and work toward an outcome that reflects those realities.

For negotiations to produce a favorable result, the defense needs leverage. Leverage comes from identifying genuine weaknesses in the government's case — a questionable traffic stop, an improper test administration, a video record that contradicts a key element of the report, a rising BAC issue that complicates the proof of intoxication at the time of driving. The more clearly those weaknesses are documented and presented, the more seriously prosecutors take the conversation.

I approach every CDL DWI case as though it may go to trial, because that preparation is what creates the leverage that makes negotiation productive. Prosecutors negotiate seriously with defense attorneys who are clearly prepared to litigate. They offer less to those who are not.

CAN A DWI CHARGE BE REDUCED?

In some cases, yes — but it depends on what the evidence shows and how effectively those issues are presented.

Charge reductions may occur when:

- The legality of the traffic stop is genuinely in question
- Field sobriety test administration was flawed
- Chemical test procedures raise reliability concerns
- Video evidence creates meaningful inconsistencies with the written record

The existence of a weakness does not automatically produce a reduction. That weakness must be documented, analyzed, and brought to the prosecutor's attention in a way

that demonstrates it could succeed at a suppression hearing or trial.

Every case is different. Outcomes depend on the specific facts, the jurisdiction, and the particular weaknesses in the investigation.

11.9 When Reducing a Charge May Protect a CDL

For CDL drivers, the goal of any negotiation is not simply to reduce criminal punishment. The goal is to reach an outcome that does not trigger CDL disqualification under federal regulations.

This distinction matters enormously. A charge reduction that looks favorable on paper — lower fine, no jail time, shorter probation — may still result in CDL disqualification if the offense to which the driver pleads carries federal disqualifying consequences. Conversely, a case that is reduced to a charge that does not trigger federal disqualification — even with more onerous criminal conditions — may be far better for the driver's long-term situation.

I review every proposed plea or charge reduction through the lens of federal CDL consequences before advising a client to accept or reject it. A CDL driver who pleads guilty to a reduced charge without understanding its CDL implications may believe they have resolved the problem, only to discover that their commercial license is disqualified anyway. That outcome, in my experience, is one of the worst because it combines the cost of a plea with the career consequence the driver was trying to avoid.

Understanding the specific federal triggers for CDL disqualification — and knowing which charge reductions avoid those triggers — is a specialized area of knowledge that general criminal defense attorneys do not always have. It is one of the reasons CDL drivers specifically benefit from counsel experienced with commercial driver licensing law.

Anthony has been driving commercially for fourteen years. He is charged with DWI after a traffic stop in his personal vehicle. His BAC tested at 0.10.

During my review of the case, I identify several issues with how the field sobriety tests were administered. The stop itself occurred on a particularly rough stretch of highway shoulder, and the dashcam shows environmental conditions that the officer's report does not mention. I also note that the breath test was administered approximately ninety minutes after the stop, which raises a rising BAC question worth exploring.

With these issues documented, I approach the prosecutor with a specific objective: reach an outcome that resolves the criminal case without triggering federal CDL disqualification. We discuss the evidentiary issues frankly. The prosecutor reviews the dashcam footage.

The case resolves with a charge reduction that carries its own consequences — a fine, community service, and a period of monitoring. But it does not trigger CDL disqualification. Anthony keeps his license. He keeps his job.

Not every case resolves this way. But this one did because the defense identified real problems with the investigation and used them effectively.

Closing Thoughts

11.10 Closing Thoughts: The Goal Is to Protect Your Career

A DWI arrest puts everything a commercial driver has built at risk. The response to that risk is not panic, and it is not resignation. It is a careful, systematic examination of the

government’s case, conducted by someone who understands both the criminal law and the federal CDL consequences that run alongside it.

The strategies described in this chapter — challenging the stop, examining test procedures, scrutinizing officer accounts against video records, negotiating toward outcomes that preserve commercial driving privileges — are not magic solutions. Some cases are stronger for the prosecution than others, and honest representation means telling clients that clearly. But every case deserves a thorough analysis. And in my experience, a thorough analysis almost always identifies something worth examining.

The arrest is the beginning of the process. It is not the end.

Checklist

11.11 Checklist: How Defense Strategy Develops

Defense strategy in a CDL DWI case develops step by step, following the evidence. The flowchart below shows the typical sequence. The checklist that follows it identifies the specific issues I examine at each stage.

The Defense Strategy Process

TRAFFIC STOP

Was there reasonable suspicion? Is the officer’s stated basis consistent with available video and documentation?





EVIDENCE REVIEW

Police reports, dashcam and bodycam footage, field sobriety test records, chemical test documentation, and any other materials are collected and compared.



LEGAL CHALLENGES

Suppression motions, challenges to testing procedures, and other legal arguments are identified and prepared based on what the evidence review revealed.



NEGOTIATIONS OR TRIAL

Documented weaknesses in the government's case create leverage for negotiating outcomes that avoid CDL-triggering consequences. If no acceptable resolution is reached, the case proceeds to trial.



CASE OUTCOME

Every outcome is evaluated first for its CDL consequences. A resolution that appears favorable on criminal terms may still trigger disqualification. The CDL analysis governs the strategy.

WHAT ATTORNEYS EXAMINE WHEN BUILDING A CDL DWI DEFENSE

- ✓ Legality of the traffic stop — Was there reasonable suspicion? Is it documented consistently and supported by video?
- ✓ Field sobriety test conditions — Surface, lighting, distractions, and whether physical limitations were identified before testing
- ✓ Field sobriety test administration — Were standardized instructions followed? Was scoring consistent?
- ✓ Breath test procedures — Calibration records, operator qualifications, protocol compliance, and timing relative to driving
- ✓ Blood test chain of custody — Sample collection, storage, preservation, and laboratory procedures
- ✓ Rising BAC analysis — Timing gap between driving and testing, recent consumption, and whether toxicology review is warranted
- ✓ Video vs. written report comparison — Do dashcam and bodycam footage support or contradict the officer's written account?
- ✓ CDL disqualification consequences — Has every proposed charge and plea been evaluated for federal CDL implications?

What to Do After a CDL DWI Arrest

11.12 What to Do After a CDL DWI Arrest

The decisions made in the hours and days after a CDL DWI arrest can affect how the case develops. Chapter 12 addresses this in detail, but the most important immediate steps are worth noting here.

IMMEDIATE STEPS AFTER A CDL DWI ARREST

- ✓ Write down everything you remember — Details of the stop, the officer's stated reason for stopping you, the conditions where field sobriety tests were conducted, and the timing of any breath or blood test. Do this within 24 hours while memory is fresh.

- ✓ Preserve all paperwork — Citations, bond documents, any notices about your driver's license or CDL status. Do not discard anything related to the arrest.
- ✓ Identify important deadlines — Texas has a short window for requesting an Administrative License Revocation (ALR) hearing. Missing that deadline can result in automatic suspension.
- ✓ Contact an attorney experienced with CDL cases — Not just a DWI attorney, but one who understands the federal CDL consequences that run alongside the criminal case.
- ✓ Do not discuss the case — Not with coworkers, not on social media, not with anyone other than your attorney. Statements made informally can become evidence.

Frequently Asked Questions

11.13 Frequently Asked Questions

If I was arrested for DWI, is there really anything a defense attorney can do?

Yes — often quite a bit. A DWI arrest is the beginning of a legal process, not the conclusion. Whether the traffic stop was legally justified, how the field sobriety tests were conducted, what the video shows versus what the report says, and how the chemical testing was handled are all subject to review. Many DWI cases contain issues that affect the strength of the prosecution's case in meaningful ways.

What is the first thing a defense attorney looks at in a CDL DWI case?

The traffic stop. Before examining anything else, I want to understand why the vehicle was stopped, whether that reason is legally sufficient, and whether the available

evidence — particularly video — supports or contradicts the officer's account. The stop is the foundation of the entire investigation.

Can evidence from a DWI arrest be suppressed?

Under certain circumstances, yes. If the traffic stop was not legally justified, evidence obtained as a result of that stop may be subject to suppression under the Fourth Amendment exclusionary rule. Suppression does not happen automatically — it requires a motion and a hearing — but when the legal basis for the stop cannot be established, suppression is a serious argument.

Can a DWI charge be reduced to something that does not affect my CDL?

In some cases, yes. Whether a charge reduction is available depends on the specific weaknesses in the government's case, the jurisdiction, and the prosecutor involved. More importantly, not every reduction protects a CDL — some offenses that appear to be reduced charges still carry federal CDL disqualification consequences. Any proposed resolution must be evaluated specifically for its CDL implications before a decision is made.

Does it matter that my DWI was in my personal vehicle, not a commercial truck?

For CDL purposes, yes — and not in the way most drivers expect. Federal regulations impose CDL disqualification consequences for DWI convictions regardless of what vehicle the driver was operating at the time. A DWI in a personal vehicle can disqualify a commercial license just as a DWI in a commercial vehicle can.

What if the officer's report and the dashcam video do not match?

Discrepancies between written reports and video evidence are significant. Juries evaluate witness credibility, including officer credibility. When a written account contains details that the objective video record does not support — or directly contradicts — that mismatch can affect the weight given to all of the officer's other observations. It is one of the most useful forms of evidence in DWI defense.

How does a defense attorney create leverage in negotiations?

By doing the preparation work that makes the legal challenges credible. A prosecutor negotiates seriously when the defense has identified genuine issues in the investigation, documented them thoroughly, and demonstrated the ability and willingness to litigate them. Leverage in DWI cases comes from the evidence — from finding and presenting the places where the government's case does not hold up.

Why do I need an attorney who understands CDL law specifically?

Because the CDL consequences of a DWI case are governed by a separate and complex body of federal law that operates alongside the criminal case. A general DWI attorney may resolve the criminal charge effectively without understanding that the plea or reduction agreed to still triggers federal CDL disqualification. For a commercial driver, that outcome — resolving the criminal case in a way that destroys the career — is the worst possible result.

CHAPTER 12

WHAT CDL DRIVERS SHOULD DO IMMEDIATELY AFTER AN ARREST

The phone call I dread most is the one I receive a week or two after a CDL DWI arrest, when a driver explains that they have been focused on preparing for their court date — and did not know they had already missed the deadline to challenge their license suspension.

That deadline is fifteen days. It runs from the date of the arrest. It does not wait for the criminal case to unfold, and it does not extend because the driver was busy, confused, or unaware it existed. When it passes without action, the license suspension process begins automatically. For a commercial driver, that consequence can begin rolling into employment consequences before the criminal case has even had its first hearing.

This chapter is about the critical window that opens the moment a CDL DWI arrest occurs. The decisions made in that window — or the decisions not made — can shape the trajectory of everything that follows.

Not every issue in a CDL DWI case can be solved in the first two weeks. But several of the most important ones must be addressed in that period, or the opportunity to address them closes. Understanding what those issues are, and what to do about them, is what this chapter is for.

The First Hours

12.1 The First Hours After a DWI Arrest

The immediate aftermath of a DWI arrest is disorienting. There is the arrest itself, then booking, then the process of being released — with a stack of paperwork that most drivers have never seen before and are not sure how to read. By the time a driver gets home, it may be two or three in the morning. The instinct is to put the paperwork somewhere safe and deal with it tomorrow.

That instinct is understandable, but the paperwork needs attention sooner rather than later. Buried in the documents from an arrest are notices about administrative proceedings that operate on their own timelines, completely separate from the criminal case. Those proceedings have their own deadlines, and those deadlines do not align with the criminal court schedule.

The first practical step after a CDL DWI arrest is simple: keep everything. Every citation, every piece of bond paperwork, every notice about your driver's license, every form the officer gave you at the scene. None of it should be discarded. Any one of those documents may contain a deadline, a case number, or an address for a proceeding that needs to be acted on quickly.

The second step is equally simple: write down what you remember about the stop. The location, the time, the reason

the officer gave for stopping you, what was asked and what was said, the conditions where the field sobriety tests were conducted, and the timing of any breath or blood test. Do this within twenty-four hours. Memory degrades quickly after a stressful event, and the specific details that seem vivid today – the lighting, the road surface, the sequence of events – will be harder to reconstruct a week from now.

WHAT TO DO IN THE FIRST 24 HOURS

The hours immediately after a CDL DWI arrest are not the time to wait and see. Two things should happen right away:

- Keep every document from the arrest in one place. Citations, bond paperwork, license notices, court appearance orders – all of it. Do not discard anything.
- Write down a detailed account of the stop while the memory is fresh. Location, time of day, officer’s stated reason for stopping you, conditions during field sobriety testing, timing of any breath or blood test, and anything else you observed.

These two steps cost nothing and can matter considerably in the weeks and months ahead.

Marcus has driven commercially for sixteen years. He is arrested for DWI on a Thursday night after a birthday dinner with his wife. He is released from the county jail at 2:45 in the morning.

When he gets home, he puts the paperwork in a kitchen drawer and goes to bed. He tells himself he will deal with it over the weekend when his head is clearer.

On Saturday morning, his wife finds the paperwork and notices that one of the forms is a DIC-25 – a notice from

the Department of Public Safety initiating the Administrative License Revocation process. The form says that Marcus has fifteen days from the date of arrest to request a hearing.

His arrest was Thursday. It is now Saturday. He has thirteen days left.

He calls my office on Monday morning. We request the ALR hearing that afternoon. He has not missed the deadline, but he came close – and the only reason he caught it was that his wife read the paperwork he almost left in a drawer.

The 15-Day ALR Deadline

12.2 Understanding the Administrative License Revocation (ALR) Process

In Texas, a DWI arrest triggers two separate legal proceedings that run on completely different tracks. The criminal case – the DWI charge itself – moves through the county court system according to the criminal court calendar, which typically unfolds over months. The Administrative License Revocation process moves much faster, and it is entirely separate from the criminal case.

The ALR process is administered by the Texas Department of Public Safety, not by the criminal courts. Its purpose is to determine whether the driver's license should be suspended based on the alcohol-related arrest – specifically, whether the driver refused chemical testing, or whether a chemical test produced a result above the legal limit. For CDL holders, this determination affects both the regular driver's license and the commercial license.

The ALR hearing itself is an administrative proceeding, not a criminal trial. It has different rules of evidence, different

standards of proof, and a different decision-maker – an administrative law judge rather than a county court judge or jury. Critically, it also has its own timeline, which begins running from the date of arrest regardless of where the criminal case stands.

THE ALR PROCESS: WHAT CDL DRIVERS NEED TO KNOW

The Administrative License Revocation (ALR) process is separate from the criminal DWI case and runs on its own timeline.

- It is initiated by the Texas Department of Public Safety, not by the criminal courts.
- Its purpose is to determine whether a license suspension is warranted based on the arrest.
- For CDL drivers, it affects both the regular driver's license and the commercial license.
- The hearing is an administrative proceeding, not a criminal trial – different rules, different standard of proof, different decision-maker.

Most importantly: the clock starts running from the date of arrest, and a driver has only 15 days to request a hearing.

12.3 Why the 15-Day Deadline Is So Important

Fifteen days is not very long. When a driver is released from custody on a Thursday night, the weekend arrives before much can be done. If Monday is spent recovering and getting back to work, and Tuesday brings more obligations, the deadline can close in with alarming speed.

If the hearing is not requested within fifteen days, the suspension proceeds automatically. There is no second chance to request the hearing. There is no extension for drivers who did not know about the deadline. The window closes, and with it the opportunity to challenge the suspension through the ALR process.

For CDL drivers, the stakes of an automatic suspension are particularly high. A regular driver who loses their license faces inconvenience. A commercial driver who loses their license faces the loss of their primary source of income. Even a temporary suspension – ninety days for a first refusal, sixty days for a first failure – can disrupt employment in ways that are difficult to recover from.

There is also a strategic dimension to the ALR hearing that goes beyond the license itself. The hearing creates an early opportunity to examine the arresting officer under oath, before the criminal case reaches the point where the defense can depose witnesses or conduct discovery. Information obtained at the ALR hearing can sometimes be valuable in the defense of the criminal case. When the deadline is missed, that opportunity disappears along with the chance to challenge the suspension.

The First 15 Days After a CDL DWI Arrest

DAY 1 – ARREST

Driver is stopped, arrested, and receives paperwork including a DIC-25 notice initiating the ALR process. The 15-day clock begins immediately.



DAYS 1 – 15 – REQUEST THE ALR HEARING

The driver (or their attorney) must contact the Texas DPS and formally request an ALR hearing within this window. Missing this deadline means the suspension proceeds automatically and cannot be challenged through the ALR process.



WEEKS 3–6 — ALR HEARING

The administrative hearing is scheduled and conducted. The driver has the opportunity to challenge the suspension. The officer may testify, creating an early deposition-like opportunity for the defense.



WEEKS 4–12 — FIRST CRIMINAL COURT APPEARANCE

The criminal DWI case begins moving through the court system. By this point, the ALR proceeding is already underway or concluded — a reminder of why the first two weeks matter so much.

Protecting Evidence

12.4 Why Evidence Can Disappear Quickly

The evidence that matters most in a DWI case is not always the evidence in the government’s possession. It is also the evidence that exists in the world outside the police report — and that evidence has a tendency to disappear if no one moves quickly to preserve it.

Video footage from businesses near the location of the traffic stop is one of the most common examples. Surveillance cameras at gas stations, restaurants, parking lots, and roadside businesses frequently capture stretches of road where traffic stops occur. That footage can sometimes show the driving behavior that preceded the stop, the conditions at the location, or the stop itself. But surveillance systems overwrite footage

on cycles that vary by business — some systems overwrite as frequently as every 72 hours. If no one requests the footage before that cycle runs, it is gone.

Witness recollections present a similar issue. People who observed a traffic stop or the events that preceded it tend to remember details clearly in the immediate aftermath and less clearly as time passes. The same is true of the driver's own memories. Early documentation preserves detail that later reconstruction cannot reliably recover.

The practical implication is that evidence preservation is not something that can wait until the attorney is retained, the case is filed, and discovery begins. Some of the most useful evidence exists only in the first days after an arrest. Identifying and securing it has to happen in that window.

EVIDENCE THAT CAN DISAPPEAR QUICKLY

Not all evidence in a DWI case is in the government's file. Some of the most useful evidence exists outside the police report and has a limited lifespan:

- Surveillance footage from nearby businesses — often overwritten within 48 to 72 hours
- Dashcam footage from the driver's own vehicle, if equipped
- Witness contact information for anyone who observed the stop or the events preceding it
- Receipts, credit card records, or rideshare logs showing the timeline of the evening
- Medical records relevant to any physical condition affecting field sobriety test performance

Early action can preserve evidence that later becomes unavailable.

12.5 Types of Evidence That May Matter in a CDL DWI Case

When I begin working on a CDL DWI case, one of my first questions is: what evidence exists beyond the police report and the government’s own recordings? The answer varies by case, but several categories of evidence come up regularly.

Police dashcam and bodycam footage is the most important starting point, and it is in the government’s possession — so it must be formally requested through the discovery process. But other video may exist that the government does not have and has no obligation to obtain. Surveillance cameras from businesses near the scene of the stop, traffic cameras operated by the Texas Department of Transportation, and security cameras at any establishment the driver visited before the stop are all worth identifying as early as possible.

Receipt and transaction records can establish the timeline of the evening with precision. A credit card receipt from a restaurant showing a dinner ending at 8:45 p.m., combined with a traffic stop at 9:10 p.m., tells a different story than an open-ended account of “drinking at a bar.” The timestamp on a Venmo transaction, an Uber or Lyft pickup confirmation, or a gas station receipt can place the driver at specific locations at specific times in ways that support the defense analysis of the BAC timeline.

Medical records are relevant when a driver has a condition that affects balance, coordination, or eye movement — the physical capabilities that field sobriety tests are designed to assess. A driver with a knee replacement who struggles with the one-leg stand is not demonstrating impairment. A driver on blood pressure medication that can cause nystagmus is not demonstrating the effect of alcohol. Medical documentation of these conditions belongs in the defense file as early as possible.

Mistakes to Avoid

12.6 Mistakes CDL Drivers Should Avoid

The weeks after a DWI arrest are a period when well-intentioned decisions can make the situation worse. I have seen drivers damage their own cases in ways that were entirely preventable – not through dishonesty, but through a misunderstanding of what the situation required.

The most common mistake is also the most avoidable: discussing the case in any public or semi-public forum before it is resolved. Social media is the obvious example, and the risks there are not subtle. A post that seems like venting – “Can’t believe what happened last night” or “This whole situation is ridiculous” – becomes potentially discoverable. Photos from earlier in the evening can be used to characterize behavior. Posts about drinking, even from days before the arrest, can be screen-captured and presented in ways the driver never intended.

Conversations with coworkers present a similar risk. A driver who discusses the arrest with a dispatch supervisor, a fellow driver, or a fleet manager may be providing information that reaches the employer’s safety department, an insurance investigator, or eventually a prosecutor. The right audience for information about what happened is the driver’s attorney, and only the driver’s attorney.

Speaking with investigators or insurance representatives without legal counsel is another area where drivers sometimes create unnecessary problems. An investigator from the driver’s carrier’s insurance company is not there to help the driver. A DOT compliance officer conducting a review following the arrest is not a neutral party. Anything said in those

conversations is not protected and can be used in ways the driver does not anticipate.

THE TOP 5 MISTAKES CDL DRIVERS MAKE AFTER A DWI ARREST

1. Ignoring the 15-day ALR deadline — The license suspension process begins automatically when the deadline passes. There is no extension and no second chance.
2. Discussing the case on social media — Posts, photos, and comments can be reviewed by investigators, prosecutors, employers, and insurers. Once published, they cannot be taken back.
3. Speaking with investigators without legal counsel — Insurance investigators, DOT compliance officers, and employer safety representatives are not neutral. Anything said can be used against the driver.
4. Failing to preserve evidence quickly — Surveillance footage, witness contact information, and transaction records may disappear within days. Waiting until the attorney is retained to think about evidence can mean it is too late.
5. Assuming the court date is the only deadline — The ALR deadline, employer reporting requirements, and evidence preservation windows all arise before the first criminal court appearance.

Multiple Investigations

12.7 How CDL Drivers Are Investigated After a DWI Arrest

One of the facts about CDL DWI arrests that surprises drivers most is this: the criminal case is often not the only investigation that follows. Commercial drivers operate under multiple layers of regulation, and a DWI arrest can trigger reviews from several different directions simultaneously.

The criminal investigation is conducted by the arresting agency and prosecuted by the county or municipal prosecutor's office. It focuses on whether the driver committed a crime under Texas law. That proceeding is the one most drivers are thinking about when they imagine what a DWI case looks like.

The employer investigation proceeds separately and follows its own timeline and standards. Trucking companies are required under federal regulations to maintain driver qualification files and to respond to safety-related events involving their drivers. A DWI arrest — even one that has not yet resulted in a conviction — may trigger an internal review. Some carriers have policies requiring drivers to report arrests within a specified number of days. Failing to comply with a reporting requirement can itself become an employment issue, independent of how the criminal case resolves.

Federal regulatory oversight adds another layer. The Federal Motor Carrier Safety Administration maintains the Drug and Alcohol Clearinghouse, a federal database that tracks violations involving commercial drivers. Depending on the circumstances of the arrest — particularly whether it involved operation of a commercial vehicle, or whether a DOT-required drug or alcohol test was involved — the arrest may generate information that enters federal regulatory records.

Insurance company reviews are often overlooked entirely. Carriers who employ commercial drivers are required to maintain minimum liability insurance, and their insurers monitor driver records. A DWI arrest can prompt an insurer to review the carrier's safety rating, which can affect the carrier's coverage and, by extension, the driver's continued employment.

How Multiple Investigations May Follow a CDL DWI Arrest

DWI ARREST

Law enforcement conducts the initial stop and arrest. The criminal case is initiated.



CRIMINAL INVESTIGATION

The arresting agency and prosecutor evaluate charges and evidence. This is the proceeding most drivers focus on — but it is not the only one.



EMPLOYER REVIEW

The driver's carrier may initiate an internal review under company safety policies. Some carriers require the driver to self-report arrests within a specified window.



FEDERAL REGULATORY REVIEW

FMCSA records, the Drug and Alcohol Clearinghouse, and CDL disqualification proceedings operate under federal law, separately from the criminal case.





INSURANCE REVIEW

The carrier's insurer may review driver records and evaluate the carrier's safety rating, which can affect both coverage and employment.

12.8 Why CDL Drivers Need Legal Guidance Quickly

The picture that emerges from the first week after a CDL DWI arrest is of multiple proceedings running simultaneously, each with its own deadlines, its own standards, and its own consequences for the driver's career. The criminal case is one track. The ALR proceeding is another. The employer review is a third. The federal regulatory implications are a fourth. Insurance considerations run alongside all of them.

No driver can navigate all of this effectively without guidance from someone who understands how these systems interact. The attorney handling the criminal case needs to understand the CDL implications — because criminal case decisions affect federal disqualification outcomes. The ALR strategy needs to account for what the defense is planning in the criminal case. Advice about employer reporting needs to reflect what is legally required versus what is strategically advisable.

I tell clients the same thing at the beginning of every CDL DWI representation: the earlier we start, the more options we have. The ALR deadline is the clearest example. But evidence preservation, employer reporting, and the early strategic framing of the case all benefit from early attention. What can be addressed in the first week cannot always be addressed in the second or third.

Checklist

12.9 Checklist: The First 15 Days After a CDL DWI Arrest

WHAT CDL DRIVERS SHOULD DO IMMEDIATELY AFTER A DWI ARREST

- ✓ Keep all arrest paperwork — Citations, bond documents, license notices, court appearance orders. Store everything together. Any of these may contain a critical deadline.
- ✓ Write down the details of the stop within 24 hours — Location, time, the officer's stated reason for stopping you, the conditions during field sobriety testing, the timing of any breath or blood test.
- ✓ Locate and read the DIC-25 notice — This is the DPS form initiating the ALR process. It contains the date of arrest and information about the 15-day hearing request window.
- ✓ Request the ALR hearing within 15 days — This must be done promptly. Do not wait for a court date or for the criminal case to proceed. The ALR deadline does not align with the criminal court schedule.
- ✓ Identify potential evidence before it disappears — Surveillance footage from nearby businesses, the driver's own dashcam if equipped, witness contact information, receipts and transaction records from the evening.
- ✓ Review your employer's reporting policy — Some carriers require drivers to report arrests within a specified number of days. Failing to comply with an internal reporting requirement can become a separate employment issue.
- ✓ Do not discuss the case publicly — No social media posts. No conversations with coworkers about what happened. The appropriate audience for information about the arrest is your attorney.
- ✓ Do not speak with investigators or insurers without counsel — Insurance investigators, DOT compliance officers, and employer safety representatives are not neutral

parties. Statements made without legal guidance can be used in ways you do not anticipate.

- ✓ Contact an attorney experienced with CDL cases — Not just a DWI attorney — one who understands the federal CDL consequences that run alongside the criminal case. The sooner this happens, the more options remain available.

Frequently Asked Questions

12.10 Frequently Asked Questions

What is the 15-day ALR deadline and why does it matter?

After a DWI arrest in Texas, the Department of Public Safety initiates the Administrative License Revocation process to determine whether the driver's license should be suspended. The driver has 15 days from the date of arrest to request a hearing. If the hearing is not requested within that window, the suspension proceeds automatically and cannot be challenged through the ALR process. For CDL drivers, missing this deadline can trigger employment consequences before the criminal case has even had its first hearing.

Is the ALR process part of the criminal case?

No. The ALR process is a separate administrative proceeding conducted by the Texas DPS, not by the criminal courts. It has its own rules, its own standard of proof, and its own decision-maker. The outcome of the ALR proceeding does not determine the outcome of the criminal case, and vice versa — but the two proceedings can affect each other strategically, which is one reason they should be managed together by the same defense team.

What if I did not know about the 15-day deadline until after it passed?

Unfortunately, the deadline does not extend because a driver was unaware of it. If the fifteen-day window has closed, the ALR process will move forward automatically. The criminal case and the broader defense still proceed, but the specific opportunity to challenge the license suspension through the ALR hearing is gone. This is one of the primary reasons CDL drivers benefit from legal guidance as early as possible after an arrest.

Should I tell my employer about the arrest?

This depends on what your company's policies require. Some carriers have internal reporting requirements that obligate drivers to report arrests or citations within a specified number of days. Failing to comply with a reporting requirement can become a separate employment issue independent of the criminal case. Review your driver handbook and employment contract, and discuss the reporting question with your attorney before deciding what to say and when to say it.

Can social media posts really affect a DWI case?

Yes. Posts, photos, and comments published after an arrest are discoverable. Prosecutors, employer safety departments, and insurance investigators can and do review social media accounts in connection with DWI cases. Even posts that seem unrelated – photos from earlier in the evening, comments about the arrest without naming it directly – can be used in ways the driver did not intend. The safest approach is to say nothing about the situation publicly until the case is resolved.

What kinds of evidence should I try to preserve?

Surveillance footage from businesses near the scene of the stop, dashcam footage from your own vehicle if equipped, contact information for any witnesses, receipts or transaction records establishing your timeline for the evening, and medical records relevant to any condition that may have affected your field sobriety test performance. Some of this evidence – particularly surveillance footage – may be overwritten within 48 to 72 hours. Preserving it requires prompt action.

Who besides the police might investigate my arrest?

A CDL DWI arrest can trigger reviews from your employer under company safety policies, from the Federal Motor Carrier Safety Administration and the Drug and Alcohol Clearinghouse if federal regulatory triggers are involved, and from the carrier's insurance company. Each of these reviews proceeds on its own timeline and uses its own standards. Being aware that multiple organizations may be examining the same event is important for understanding why early, coordinated legal guidance matters.

What if an investigator or insurance representative contacts me before I have an attorney?

Do not provide a statement. You are not required to speak with an insurance investigator or a carrier safety representative, and anything you say in those conversations can be used in ways that harm your interests. Politely indicate that you will be in touch through your attorney, and then get an attorney. This is one area where waiting even a few days to secure representation can create problems that would otherwise have been avoidable.

PART IV

**Rebuilding After
a CDL DWI**

CHAPTER 13

IF YOU LOSE YOUR CDL

The conversation I have had more times than I can count goes something like this. A driver sits across from me, and after we have worked through the facts of the case and what the defense looks like, they ask the question they have been holding back the whole time: “If I lose my CDL — what then?”

It is the right question to ask, and it deserves a direct answer.

Losing a CDL is a serious blow. For drivers who have built their working lives around a commercial license — sometimes over decades — it can feel like the ground has shifted beneath everything they built. I do not minimize that. It is a real loss, and treating it as anything less would be dishonest.

But it is not the end of the road, even when it feels that way. Some drivers regain their CDL after the disqualification period and return to commercial driving. Others find that their years of experience behind the wheel translate directly into rewarding careers in logistics, dispatch, fleet management, safety supervision, or other transportation roles that do not require a commercial license. The path looks different depending on the circumstances — but there is almost always a path.

This chapter is about understanding those paths clearly.

Understanding Disqualification

13.1 Facing CDL Disqualification

CDL disqualification is not a local or state-level penalty that varies by county or judge. It is a federal consequence, governed by regulations issued by the Federal Motor Carrier Safety Administration and applied uniformly across every state. That uniformity is both the source of its rigidity and the source of its predictability. The rules are the same everywhere, which means they can be understood and planned around.

The disqualification does not erase the driver's history, their skills, or their professional network. What it does is impose a defined period during which the driver cannot legally operate a commercial motor vehicle. Understanding that period — its length, its structure, and what comes after it — is the first step toward planning what comes next.

13.2 How Long Disqualification Lasts

Federal regulations specify disqualification periods based on the type and number of violations. For a first alcohol-related offense involving a CDL holder — whether the driver was operating a commercial or personal vehicle at the time — the minimum disqualification period is one year. If the violation involved transporting hazardous materials, that period extends to three years.

A second major offense results in lifetime CDL disqualification. This is where the regulatory framework is most severe, and it reflects a deliberate policy judgment that a driver who has committed two major violations is not someone who should be operating commercial vehicles. The word "lifetime" is not

hyperbole — it means what it says, with one narrow exception discussed below.

Some drivers are eligible to apply for reinstatement after a ten-year period following a lifetime disqualification, but reinstatement is not automatic. It requires a formal application, a demonstration of rehabilitation, and approval under the applicable regulatory standards. Not every applicant succeeds, and the process is demanding. Drivers in this situation benefit from experienced legal guidance.

FEDERAL CDL DISQUALIFICATION PERIODS AT A GLANCE

- First alcohol-related offense (any vehicle): 1-year disqualification minimum
- First offense with hazardous materials: 3-year disqualification minimum
- Second major offense: Lifetime disqualification
- Lifetime disqualification reinstatement: Eligible to apply after 10 years, subject to regulatory approval — not automatic

These periods are established by federal regulation and apply uniformly across all states. They run from the date the disqualification takes effect, not from the date of arrest or conviction.

Making Use of the Waiting Period

13.3 What to Do During the Waiting Period

A year — or three years — is a long time. How a driver uses that period can make a meaningful difference in what comes after it.

The most practical immediate step is to stabilize employment. A disqualified CDL driver cannot operate a commercial motor vehicle, but they can do many other things within the transportation and logistics industry. Carriers often have

non-driving roles — dispatch, fleet coordination, yard management, driver training, or administrative positions — that value exactly the operational knowledge a commercial driver has spent years accumulating. Staying connected to the industry during the disqualification period keeps skills current and professional relationships intact.

Drivers who have been with a carrier for a significant time should have a frank conversation with their employer as early as possible about whether a non-driving role is available. Some carriers will work to retain a valued driver in a different capacity during the disqualification period. Others will not have that flexibility. Knowing which situation applies early enough to plan for it matters.

Some drivers also use the waiting period to address any underlying issues that contributed to the arrest — not because it is required in every case, but because it can be genuinely useful and because it demonstrates, to future employers and licensing authorities, a serious commitment to the standards the industry requires. Completion of an alcohol education or treatment program, where appropriate, may also be a condition of eventual reinstatement.

The Reinstatement Process

13.4 The CDL Reinstatement Process

Once the disqualification period ends, the CDL is not automatically restored. Reinstatement is an active process that requires the driver to satisfy whatever conditions apply to their situation before the commercial license is returned.

The starting point is the Texas Department of Public Safety, which administers CDL issuance and reinstatement in Texas. The driver will need to provide documentation that the

disqualification period has been completed, satisfy any outstanding fees or administrative requirements, and demonstrate compliance with any conditions attached to the disqualification. In some cases, a driver may also be required to complete a new skills test or submit to a medical evaluation.

Federal regulations add a layer on top of state requirements for drivers who were required to participate in a drug and alcohol testing program through their employer. A driver who tested positive or refused testing must complete the return-to-duty process supervised by a Substance Abuse Professional before being eligible to return to safety-sensitive functions. That process has its own timeline and requirements that run separately from the state licensing reinstatement.

The practical advice I give drivers who are planning for reinstatement is to begin gathering the necessary documentation and understanding the requirements well before the disqualification period ends — not on the last day of it. Processing times, paperwork issues, and administrative backlogs can delay the actual restoration of the license even after the driver has technically served the required period. Starting the process early avoids unnecessary additional time off the road.

The Path Back to a CDL

DISQUALIFICATION TAKES EFFECT

The CDL disqualification period begins following conviction or other qualifying event. Federal minimums: 1 year (first offense), 3 years (hazmat), lifetime (second offense).





WAITING PERIOD

The driver completes the required disqualification period. This is the time to stabilize employment, consider non-driving roles, address any program requirements, and prepare the reinstatement documentation.



REINSTATEMENT REQUIREMENTS

The driver contacts the Texas DPS, satisfies outstanding fees and paperwork, and completes any required evaluations or testing. Drivers in employer drug/alcohol testing programs must also complete the federal return-to-duty process.



CDL REINSTATED

Once all requirements are satisfied and the DPS has processed the application, the CDL is restored. Begin early — administrative processing takes time.



RETURN TO COMMERCIAL DRIVING

The driver re-enters the job market. Realistic expectations about employer hiring practices are important. A strong safety record from this point forward rebuilds professional reputation over time.

Returning to the Industry

13.5 Finding Employment After Reinstatement

Reinstatement of the CDL means the legal right to hold the license has been restored. It does not mean that finding employment will be straightforward. Trucking companies review driver histories carefully, and a DWI conviction will be visible in those records for years. That is a reality worth understanding clearly before the job search begins.

The good news is that it is a reality with practical workarounds. Drivers who return to commercial driving after a disqualification often find that smaller regional carriers and local operations are more willing to consider their application than larger national carriers, whose insurance arrangements and safety ratings create less flexibility. A driver willing to start with a smaller company, demonstrate a strong record over one to two years, and then move toward larger opportunities over time can rebuild a commercial driving career — but it typically requires patience and realistic expectations about the timeline.

What matters most to employers reviewing a reinstatement hire is what has happened since the incident. A driver who has been working steadily in a non-driving transportation role during the disqualification period, has maintained relationships in the industry, has a clean record of any driving done during that period, and can speak thoughtfully about what they have learned presents a very different picture than a driver who has been inactive and has no account of the intervening years.

Insurance is the other consideration that shapes employer decisions in this area. Trucking companies are required to maintain minimum liability coverage, and their insurers have

significant influence over who can be placed behind the wheel. Some insurers will not cover drivers with recent DWI history regardless of reinstatement. Others will cover those drivers at a higher premium, which the carrier must be willing to absorb. This is a conversation worth having directly with a prospective employer rather than discovering it after the fact.

WHAT EMPLOYERS LOOK FOR IN REINSTATEMENT HIRES

Commercial carriers reviewing a reinstated driver's application are typically asking three questions:

- How long ago did the incident occur, and what has the driver done since?
- Is the driver's record from the period since the incident clean and consistent?
- Have they maintained their professional knowledge and connections during the disqualification period?

Drivers who can answer these questions favorably — through steady non-driving transportation employment, strong references, and a demonstrated return to safe habits — are significantly better positioned than drivers who have simply waited out the clock.

Starting with a smaller regional carrier and building a post-reinstatement record is a common and effective path back into the industry.

James drove long-haul for fourteen years. His arrest and subsequent CDL disqualification came at fifty-one — the worst possible time, he told me, because he was too old to start over and too young to stop working.

We talked about his options honestly. A one-year disqualification, a clean record before the arrest, and a

career's worth of operational knowledge. Not a hopeless situation, but a difficult one.

During the disqualification year, James reached out to the dispatcher at his former carrier. They had a non-driving opening in the regional coordination center. He took it. Twelve months later, when his CDL was reinstated, he had a year of dispatch experience, a solid reference from the same carrier that had employed him for a decade before the arrest, and a job offer to return to driving if he wanted it.

He took the driving job. It took two more years to get back to the routes and rates he had been at before the arrest. He told me later that the year in dispatch had actually made him a better driver — he understood the coordination side of the operation in ways he had never thought about from behind the wheel.

Not every driver's story goes this way. But James's story is not unusual. The path back is real. It just requires patience and a plan.

Career Alternatives

13.6 When Returning to Commercial Driving Is Not the Right Path

For some drivers, returning to the cab is not the goal — or not an option. A lifetime disqualification forecloses the commercial driving career entirely, absent the narrow reinstatement pathway discussed above. Personal health changes, family circumstances, or simply the accumulation of years on the road can make the transition to a different kind of work not just necessary but welcome.

The transportation and logistics industry is large, and commercial driving experience is genuinely valued within it in ways that are not always obvious to drivers whose entire professional identity has been behind the wheel. The knowledge that experienced drivers carry – how freight moves, where the problems occur, how routes are structured, what carriers need from their drivers, how to communicate with dock personnel, what compliance means in practice – is not easily taught in a classroom. It comes from years of doing the work. Employers in logistics, dispatch, freight brokerage, and safety supervision know that, and they pay for it.

13.7 Career Alternatives That Use What You Already Know

The table below maps the skills commercial drivers develop on the road to the roles where those skills are most directly applicable. The point is not that any of these transitions is easy or guaranteed. The point is that the knowledge is real and transferable, and that the transportation industry has genuine demand for people who have it.

Transportation and Logistics Careers That Use CDL Experience

CDL Skill or Experience	Where It Applies
Route planning and load management	Logistics coordinator, freight broker
Hours-of-service and FMCSA compliance	Safety supervisor, compliance officer
Dispatcher communication and coordination	Dispatcher, fleet coordinator
Mechanical awareness and pre-trip inspection	Fleet maintenance coordinator

Dock operations and freight handling	Warehouse supervisor, terminal manager
Heavy equipment operation	Construction or industrial equipment operator
Time management under pressure	Operations manager, regional coordinator

A few of these deserve a word of explanation. Freight brokerage — connecting shippers with carriers to move loads — is one of the more accessible and potentially lucrative paths for experienced drivers. Brokers who understand what carriers can actually do, where the friction points are, and how to talk to drivers are more effective than brokers who learned the business from a textbook. The same is true in dispatch: the best dispatchers are almost always former drivers.

Safety supervision and compliance work increasingly demands people who can translate the regulations into practical guidance that drivers will actually follow. Former CDL drivers who understand the regulations from the ground level, not just as text on a page, have a significant advantage in these roles over candidates who have only studied the compliance side.

Freight brokerage requires licensing in most states — a process that is not complicated but does require attention to the applicable requirements. Warehouse supervision and fleet coordination typically do not require additional credentials beyond the experience. The entry points to most of these roles are straightforward for a driver with a strong work history in transportation.

Closing Thoughts

13.8 Closing Thoughts

I want to end this book the same way I try to end every first meeting with a new CDL DWI client: with honesty about what the situation actually is, and with a clear-eyed account of the options that remain.

A CDL DWI arrest is serious. The consequences are real. The CDL consequences are especially serious, because they are federal, mandatory, and governed by rules that do not bend for individual circumstances the way state court proceedings sometimes can. I do not pretend otherwise, and neither should any attorney who practices in this area.

But the range of outcomes in these cases is genuinely wide. Some drivers – through careful defense work, strategic negotiations, and a thorough examination of every step in the investigation – avoid convictions that would trigger CDL disqualification entirely. Others face disqualification but return to commercial driving after completing the required period and rebuilding their record. Others find that their years in transportation set them up well for a second career in the industry they already know.

What determines which of these paths a driver travels is not just luck, and it is not just the facts of the arrest. It is the quality of the information they have, the decisions they make in the critical early days after the arrest, and the strategic approach taken to every stage of what follows.

That is what this book has been about: giving CDL drivers the information they need to make those decisions well.

Checklist

13.9 Checklist: Steps Toward Reinstatement or Career Transition

PLANNING YOUR NEXT STEPS AFTER CDL DISQUALIFICATION

- ✓ Understand the length of your disqualification period — Federal minimums are 1 year (first offense), 3 years (hazmat), lifetime (second offense). Know exactly when your eligibility date arrives.
- ✓ Explore non-driving roles with your current or former carrier — Dispatch, fleet coordination, yard management, and training roles keep you connected to the industry and preserve professional relationships.
- ✓ Determine whether any program completion is required for reinstatement — Drivers in employer testing programs may need to complete the federal return-to-duty process through a Substance Abuse Professional.
- ✓ Begin reinstatement paperwork early — Do not wait until the last day of the disqualification period. Contact the Texas DPS in advance to understand what is required and how long processing takes.
- ✓ Assess your insurance situation before applying to carriers — Some insurers will not cover recently reinstated drivers. Understanding this before you apply saves time and manages expectations.
- ✓ Build your post-reinstatement record strategically — Starting with a smaller regional carrier is common and effective. A clean two-year record after reinstatement opens doors to larger carriers.
- ✓ If returning to driving is not your path, inventory your transferable skills — Route planning, compliance knowledge, equipment operation, freight handling, and time management all translate to valued logistics and transportation careers.

Frequently Asked Questions

13.10 Frequently Asked Questions

Can I ever get my CDL back after a DWI conviction?

In most cases involving a first offense, yes — after serving the one-year federal disqualification period and completing the reinstatement process through the Texas DPS. Hazardous materials drivers face a three-year minimum. A second major offense results in lifetime disqualification, with a narrow reinstatement pathway available only after ten years and subject to regulatory approval.

Does the disqualification period run from the date of arrest or the date of conviction?

It runs from the date the disqualification officially takes effect — which may be tied to the date of a conviction, a guilty plea, or an administrative action, depending on the circumstances. The precise start date matters for calculating when reinstatement eligibility begins, and it is worth confirming with your attorney.

What can I do for work during a CDL disqualification period?

You can do almost anything that does not involve operating a commercial motor vehicle. Many disqualified drivers work in non-driving roles within the transportation industry — dispatch, fleet coordination, yard operations, warehouse supervision, freight brokerage, or logistics coordination. Staying in the industry during the disqualification period is one of the most effective things a driver can do to improve their employment prospects after reinstatement.

Is CDL reinstatement automatic when the disqualification period ends?

No. Reinstatement requires an active application through the Texas DPS, satisfaction of any outstanding fees and documentation requirements, and completion of any applicable federal return-to-duty requirements. Processing takes time. Drivers planning to return to commercial driving should begin the reinstatement process well before the end of the disqualification period.

Will trucking companies hire me after CDL reinstatement?

Some will, and some will not — and the answer often depends on the carrier's insurance arrangements as much as on the carrier's own preferences. Larger national carriers typically have less flexibility than smaller regional carriers. Drivers who have maintained steady transportation-adjacent employment during the disqualification period, have strong professional references, and can demonstrate a clean record since the incident are in a substantially better position.

What if my CDL is permanently disqualified?

Lifetime disqualification is the most serious CDL consequence and forecloses the commercial driving career except through the narrow ten-year reinstatement pathway. For drivers in this situation, the career transition discussion becomes central rather than optional. The good news is that commercial driving experience translates well to a range of logistics, dispatch, compliance, and operations roles that do not require a CDL. These are not consolation prizes — they are legitimate careers that pay well and have genuine demand for people with real-world transportation knowledge.

What careers use commercial driving experience without requiring a CDL?

The most common paths for experienced CDL drivers moving into non-driving roles are dispatching, logistics coordination, freight brokerage, fleet coordination, safety supervision, compliance work, warehouse management, and equipment operation (non-commercial). Each of these roles values different aspects of the knowledge drivers develop on the road. A dispatcher who has driven long-haul understands what drivers can realistically deliver. A safety supervisor who has spent years managing hours-of-service understands compliance from the driver's perspective. That experiential knowledge is genuinely valuable.

Is there anything useful I can do during a disqualification period to improve my situation afterward?

Quite a bit. Maintaining employment in the transportation industry, completing any program requirements that will be relevant to reinstatement, cultivating professional references, staying current on regulatory developments in the industry, and being honest with yourself and others about what the situation requires are all practical and effective. The drivers who have the smoothest reinstatements and the best post-reinstatement employment outcomes are almost always the ones who approached the disqualification period as a period of preparation rather than as something to simply endure.

CHAPTER 14

FREQUENTLY ASKED QUESTIONS

Every CDL driver who walks into my office after a DWI arrest brings a version of the same list of questions. Some of them have been researched online and arrived with half-answers and more confusion than they started with. Some of them do not yet know exactly what to ask, only that the situation feels urgent and the stakes are high.

This chapter collects the questions I hear most often and answers them directly. Some of these questions have clear answers rooted in federal regulation. Others depend on facts specific to an individual case. Where the answer is straightforward, I give it. Where the answer depends on the circumstances, I explain what the circumstances are and why they matter.

This chapter is designed to be useful as a reference. You do not need to read it straight through. Find the question that matters most right now. The answers will still be here when the next question comes up.

CDL Consequences

Can I lose my CDL for a DWI in my personal vehicle?

Yes — and this surprises more CDL drivers than almost any other fact in this area of law.

The assumption most drivers bring to this question is that stricter CDL rules apply only when they are behind the wheel of a commercial truck or bus. That assumption is wrong. Federal regulations governing CDL holders impose disqualification consequences for certain alcohol-related convictions regardless of what vehicle the driver was operating at the time. A DWI conviction in a personal pickup truck carries the same minimum one-year CDL disqualification as a DWI conviction in a semi.

The rationale behind this rule reflects a deliberate policy judgment: a commercial driver's fitness to operate a commercial vehicle is assessed based on their overall conduct, not only their conduct while in the cab. A driver who drinks and drives in their personal vehicle on Saturday night is demonstrating something about their relationship with alcohol that federal regulators consider relevant to their suitability as a commercial driver.

This is why CDL drivers must approach a DWI charge — in any vehicle — with the same urgency they would bring to a charge involving commercial operation. The licensing consequences are the same.

How long will a CDL disqualification last?

Federal regulations establish specific minimum disqualification periods based on the nature and number of violations. These periods are not subject to judicial discretion or local

variation – they are federal minimums applied uniformly across every state.

FEDERAL CDL DISQUALIFICATION PERIODS

- First alcohol-related offense – 1-year minimum disqualification
- First offense, hazardous materials driver – 3-year minimum disqualification
- Second major offense – Lifetime disqualification
- Lifetime disqualification reinstatement – Application eligible after 10 years – not automatic, subject to regulatory approval

The disqualification period runs from the date it takes effect – typically tied to the date of conviction or guilty plea – not from the date of the arrest. Knowing exactly when your disqualification begins and ends matters for planning purposes and for initiating the reinstatement process on the right timeline.

Drivers facing a second offense should understand that lifetime disqualification means what it says. The ten-year reinstatement application pathway exists but is demanding: it requires a formal application, documentation of rehabilitation, and regulatory approval. Not every application succeeds.

Will my employer find out about my arrest?

In most cases, yes – and often sooner than drivers expect.

Trucking companies are required under federal law to investigate certain alcohol- and drug-related incidents involving their drivers. The FMCSA Drug and Alcohol Clearinghouse, a federal database that became fully operational in 2020, requires both employers and drivers to report violations and query the system before placing drivers in safety-sensitive positions. An arrest that results in a disqualifying action will

enter that database, and any carrier conducting the required pre-employment query will see it.

Beyond the regulatory system, many carriers conduct regular license monitoring through third-party services that flag changes in a driver's record — sometimes within 24 to 48 hours of an event being recorded by the state. Company policies also play a role: many carriers require drivers to self-report arrests within a specified number of days, and failing to do so can create a separate employment problem independent of the underlying charge.

The honest answer is that a CDL driver should plan on the employer finding out, and should think carefully — ideally with legal guidance — about when and how to address the situation rather than hoping it stays hidden.

Can I continue working while my case is pending?

It depends — on your company's policies, your licensing status, and what, if anything, your employer already knows.

If your regular driver's license and CDL are both still valid while the case is pending — which is often the case before an ALR suspension takes effect or a conviction occurs — there is no federal regulation that automatically prohibits you from driving commercially during that window. The question becomes what your carrier's own policies require.

Many carriers have internal safety policies that restrict or suspend a driver pending resolution of alcohol-related charges. Some are triggered by the arrest itself; others by a license action or conviction. Insurance arrangements can also be a factor — a carrier's insurer may impose conditions or restrictions that the carrier then passes along to the driver.

Read your driver handbook carefully, and if your carrier has a human resources or safety department, understand their process before assuming you can continue without interruption.

Drivers who miss the 15-day ALR hearing deadline and have their license suspended face an additional obstacle: they cannot legally drive even a personal vehicle for essential purposes without an occupational license, and they cannot drive a commercial vehicle at all during the suspension period regardless of what their employer would otherwise permit.

Alcohol Limits and Testing

Is a 0.04 BAC an automatic conviction?

No. A BAC reading — whether 0.04, 0.08, or any other number — is a piece of evidence, not a verdict.

For CDL holders operating a commercial motor vehicle, the legal limit is 0.04. For those driving a personal vehicle, the standard 0.08 limit applies. Reaching or exceeding these thresholds creates a legal presumption that can be relevant at trial, but it does not eliminate the prosecution's burden to prove the case, and it does not immunize the chemical test result from scrutiny.

As discussed at length in Chapters 10 and 11, the process that produces a BAC reading is subject to examination at every stage: the calibration and maintenance of the testing device, the qualifications and procedures of the operator, the timing of the test relative to when the driver was operating the vehicle, and the possibility that alcohol was still being absorbed at the time of the stop. A test result that looks straightforward in a police report may look considerably less straightforward after a forensic toxicologist reviews the underlying data.

The important point is this: a positive BAC reading is not the end of the analysis. It is the beginning of a set of questions that an experienced defense attorney will examine carefully.

Should I refuse a breath or blood test?

This is one of the most common questions I receive, and it is one where the answer requires understanding what refusal actually costs before deciding whether it is worth it.

Texas operates under implied consent, which means that by driving on Texas roads, a driver has implicitly agreed to submit to chemical testing following a lawful DWI arrest. Refusing a test is not a crime, but it carries its own set of consequences. A refusal triggers an ALR proceeding with a potential 180-day license suspension for a first refusal — longer than the 90-day suspension that follows a test failure. The refusal can also be introduced as evidence in the criminal case, where a jury may draw its own inferences about why the driver declined to test.

For CDL drivers specifically, refusal carries an additional layer. Federal regulations treat a refusal to submit to a required chemical test as equivalent to a positive test result for CDL purposes. The disqualification consequences that flow from a refusal are the same as those that flow from a confirmed violation.

WHAT REFUSAL DOES AND DOES NOT ACCOMPLISH

A refusal does not prevent the prosecution from building a case. Officers can seek a warrant for a blood draw in many circumstances.

A refusal does not avoid the ALR process — it triggers a potentially longer suspension than a test failure.

A refusal can be introduced as evidence in the criminal trial.

For CDL purposes, a refusal is treated the same as a positive test result.

In some specific circumstances — where a driver has particular medical or physical concerns about testing — the calculus may be different. This is a decision worth discussing with an attorney before it arises, not during a roadside encounter.

What is the difference between a breath test and a blood test?

Breath tests are administered roadside or at the police station using a device that measures alcohol concentration in exhaled air and converts it to an estimated blood alcohol level. They produce results quickly, require no medical personnel, and are the most common form of chemical testing in Texas DWI cases. Their limitations include the margin of error in the conversion calculation, the potential for interference from mouth alcohol or certain medical conditions, and the fact that results depend on the proper calibration and maintenance of the device.

Blood tests are more accurate but more invasive and logistically complex. They require a trained phlebotomist or medical personnel to draw a blood sample, which is then sent to a laboratory for analysis. Because blood contains the alcohol directly, there is no conversion calculation, and the result is generally considered more reliable. However, blood tests introduce their own set of issues: chain of custody, sample storage and preservation, laboratory procedures, and the qualifications of the analyst are all subject to examination.

From a defense perspective, both types of tests have vulnerabilities. Breath tests are more commonly challenged on calibration and procedure grounds; blood tests are more commonly challenged on chain of custody and laboratory

methodology. Neither is the last word on BAC, and either can be examined effectively by a qualified defense attorney and forensic expert.

Defending the Case

Can I save my CDL if I fight the case?

Fighting the case is often the most direct path to protecting the CDL – but the answer is more nuanced than a simple yes.

The clearest way to avoid CDL disqualification is to avoid the conviction that triggers it. If the defense succeeds in suppressing key evidence, or the case is dismissed, or the driver is acquitted at trial, there is no conviction and therefore no mandatory disqualification. That outcome is the goal in the strongest cases.

In cases where an outright win is not achievable, the focus often shifts to the outcome of the resolution. Not every DWI-adjacent charge triggers CDL disqualification. Some charge reductions – to offenses that do not carry federal disqualifying consequences – preserve the commercial license even when they involve real criminal consequences. Identifying which reductions protect the CDL and negotiating toward those outcomes, rather than accepting whatever the prosecutor initially offers, is a core function of CDL-specific DWI defense.

The critical point is this: a CDL driver who accepts a plea without understanding the CDL implications of what they are pleading to may resolve the criminal case while walking directly into a disqualification they could have avoided. This is one of the most important reasons CDL drivers benefit from counsel who understands both the criminal law and the federal licensing consequences simultaneously.

What are the most common weaknesses in a DWI investigation?

Chapter 10 addresses this in detail, but the short answer is that DWI investigations are multi-step processes, and each step is subject to scrutiny.

WHERE DWI INVESTIGATIONS MOST OFTEN BREAK DOWN

- The traffic stop — Did the officer have reasonable suspicion? Does the video support the stated reason for the stop?
- Field sobriety tests — Were they administered correctly? Did environmental conditions, physical limitations, or inadequate instructions affect performance?
- Chemical testing — Was the device properly calibrated and maintained? Were procedures followed correctly? Was the timing gap between driving and testing significant?
- Rising BAC — Was alcohol still being absorbed when the driver was stopped? Could the BAC at the time of driving have been lower than the test result?
- Video vs. written report — Does dashcam or bodycam footage support the officer's written account, or does it tell a different story?

The investigation does not have to fail completely to affect the case. A serious weakness in any one of these areas creates leverage — for a suppression motion, for a negotiation, or for a trial where the jury must decide whether the government has met its burden of proof beyond a reasonable doubt.

What is the 15-day ALR deadline and what happens if I miss it?

After a DWI arrest in Texas, the Department of Public Safety initiates the Administrative License Revocation process by serving the driver with a DIC-25 notice. That document initiates a 15-day window during which the driver — or their

attorney — must formally request an ALR hearing. If no request is made within those 15 days, the license suspension proceeds automatically without a hearing.

The ALR process is entirely separate from the criminal case. It is an administrative proceeding, not a criminal trial, and it runs on its own timeline. The 15-day deadline does not align with the criminal court schedule and does not extend because the driver was busy, confused, or did not know it existed.

Missing the deadline costs two things. The first is the opportunity to challenge the license suspension through the administrative process. The second is a strategic asset that Chapter 12 discusses in more detail: the ALR hearing creates an early opportunity to examine the arresting officer under oath, before the criminal case reaches the stage where witness examination would otherwise be available to the defense. That opportunity disappears when the deadline passes.

For CDL drivers, the stakes of an automatic suspension are particularly acute. Even a temporary license suspension can interrupt employment before the criminal case has progressed at all. The 15-day deadline should be treated as the most urgent single action item in the first week after an arrest.

Moving Forward

What should I do immediately after a CDL DWI arrest?

Chapter 12 covers this in full, but the most important actions are worth summarizing here because the first few days matter more than most drivers realize.

THE MOST IMPORTANT STEPS IN THE FIRST 72 HOURS

- Keep every document from the arrest — Citations, bond paperwork, court notices, and the DIC-25 ALR notice. Do not discard anything.
- Write down the details of the stop — Location, time, the officer’s stated reason for stopping you, the conditions during field sobriety testing, timing of chemical testing. Do this within 24 hours.
- Identify the 15-day ALR deadline — Find the DIC-25 notice and note the arrest date. The clock is running.
- Identify potential evidence before it disappears — Surveillance footage from nearby businesses may be overwritten within 48 to 72 hours. Receipts, rideshare records, and transaction logs establish your timeline.
- Do not discuss the case publicly — No social media posts. No conversations with coworkers or supervisors about what happened. The appropriate audience is your attorney.
- Contact an attorney with CDL experience — Not just a DWI attorney — one who understands the federal CDL consequences that run alongside the criminal case.

The decisions made in the first week after a CDL DWI arrest can shape the trajectory of everything that follows. Acting quickly preserves options that waiting closes off.

What if my CDL is permanently disqualified?

Lifetime disqualification is the most severe CDL consequence, and I want to address it directly because drivers facing it deserve an honest account of what it means and what options remain.

A lifetime disqualification means the federal right to hold a CDL has been permanently revoked following a second major offense. There is one narrow pathway back: after ten years, a driver may apply for reinstatement by demonstrating rehabilitation and

meeting the applicable regulatory standards. Reinstatement is not automatic, and not every application succeeds. But the pathway exists, and drivers who want to pursue it benefit from understanding what the standards require well in advance of the ten-year mark.

For drivers who will not or cannot pursue reinstatement, the career transition discussion in Chapter 13 is worth reading carefully. Commercial driving experience — knowledge of freight operations, regulatory compliance, route management, equipment, and the daily realities of the transportation industry — translates directly to a range of roles in logistics, dispatch, fleet operations, safety supervision, and freight brokerage. These are not consolation careers. They are positions where experienced former drivers have a genuine advantage over candidates who learned the industry from a classroom.

A lifetime disqualification is a serious setback. It is not the end of a working life in transportation.

A Final Note

These questions represent the concerns I hear most often, but every case is different, and the specific facts of a situation always matter. The law governing CDL DWI cases is detailed, the consequences are serious, and the decisions made early in the process have lasting effects.

If you have questions about your specific situation that this book has not addressed, the best source of accurate, current guidance is an attorney who handles CDL DWI cases regularly and understands both the criminal law and the federal licensing framework that governs commercial drivers.

Texas Criminal Defense Group handles CDL DWI cases throughout Texas. Our contact information is at the front of this book.

CONCLUSION

You've made it to the end of this guide, so give yourself some credit. That means you're taking this seriously. You're looking for answers. And most importantly, you're taking steps toward moving forward.

That matters. Getting charged with a DWI can be one of the most overwhelming experiences in someone's life. The arrest, the court appearances, the fear of losing your license or going to jail; it's a lot to carry, especially if you've never had a run-in with the law before.

But now you know this: You are not powerless, and you are not alone.

You've learned how the DWI process works in Texas. You've seen the difference a good defense can make. You've gained insight into your rights, your responsibilities, and your options.

And hopefully, you've started to reflect not just on what happened, but on what happens next.

What You Do Next Matters More Than What Happened

Whether this was a one-time mistake or a wake-up call, the most important decisions are still ahead of you. Will you take responsibility? Will you follow through? Will you use this as a turning point?

If you've read this book cover to cover, you already know how. The path is here; you just have to keep going.

Reminders

- Act quickly after your arrest, especially with license-related deadlines.
- Hire an attorney who focuses on DWI defense in Texas.
- Show up, stay organized, and follow court orders to the letter.
- Learn from this, whether it means changing habits, seeking help, or setting new boundaries.

If you haven't yet selected your defense attorney, we stand ready to help you.

Stephen Hamilton
Texas Criminal Defense Group
texascriminaldefensegroup.com
806-444-4444

Offices in: Amarillo, Austin, Dallas, Denton, Fort Worth, Houston, Lubbock, McKinney, Midland, Odessa, San Angelo, and San Antonio.

Google Reviews

4.9 rating, 500+ reviews

Adrian Hernandez ★★★★★

My experience with them was just awesome! Never felt like I was clueless, they were super helpful through the whole process and we got exactly what we were fighting for without me even having to lift a finger really! 10 out of 10, great work!

Anayancy Quintana ★★★★★

I had a case opened from about 3 years ago, that I had no idea about. I contacted this firm for all the great reviews. I didn't have to show up or do anything really, my lawyer got the charge dismissed and I got to go on with my life. Highly recommend.

Brandon Paz ★★★★★

This team of professionals are highly versed in all areas of criminal defense! They have come through time and time again with favorable results! I like to say that they "work their magic!" Very thorough, and precise in their work! Highly recommend!!

caitlin nino ★★★★★

If I could give 10 stars I would! This group not only did their best to get the best outcome for me, but they treated me like a friend as well. It's very easy to get in contact with them if you have any questions which was the best part. TCDG are very attentive, very friendly personally I believe they deserve the Best In Texas plaque! If you've ever found yourself in a pickle this family is the way you want to go!

Daniel ★★★★★

I cannot thank the Texas Criminal Defense Group enough for their incredible work on my case. Facing 2 to 10 years for a crime I didn't commit was the hardest thing I've ever endured, but they gave me peace of mind throughout the entire process. They were extremely thorough, professional, and dedicated, always keeping me informed and reassured. Their commitment to proving my innocence was unwavering. They went above and beyond, treating my case with the seriousness and care it deserved. Thanks to their expertise and tireless efforts, I was able to walk away with my name cleared, and I can now move forward with my life.

Juan Montez ★★★★★

TCDG has been great in helping me with my case! My lawyer was straight forward about what to expect and that helped me prepare mentally about what was to come. Everyone has been amazing at communicating to me what needed to be done throughout the process! I would recommend them to anyone!

Charged With a CDL DWI in Texas?

For most commercial drivers, a CDL is more than just a license. It's a career, a livelihood, and a way to provide for your family.

A DWI charge can put all of that at risk, for commercial drivers face stricter rules, lower alcohol limits, and harsher consequences than ordinary motorists. Even a first-time offense can threaten your CDL, your job, and your future.

In this straightforward and easy-to-understand guide, Texas DWI attorney Stephen Hamilton explains what every commercial driver needs to know after a DWI arrest. Inside, you will learn:

- Why CDL drivers are held to a different legal standard
- The critical difference between the 0.04 and 0.08 BAC limits
- How a DWI can affect your CDL... even if it happens in your personal vehicle
- What happens after a DWI arrest in Texas
- The two separate battles you may face: the criminal case and the license suspension hearing
- How experienced defense attorneys challenge traffic stops, chemical tests, and police evidence
- The common mistakes that can make a CDL case worse

Most importantly, this book will help you understand what you can do right now to protect your license, your job, and your future.

About the Author

Attorney Stephen Hamilton is the founding partner and lead trial attorney at The Texas Criminal Defense Group. Stephen ranks among the fewer than 1% of practicing criminal attorneys across Texas who have achieved coveted board certification in criminal law by the Texas Board of Legal Specialization. He has been awarded numerous awards, and his counsel is highly esteemed by his peers. He is a lifetime legal member of the National Association of Criminal Defense Attorneys, the Texas Criminal Defense Lawyer's Association, and several other regional legal associations.

