

A PRIMER FOR PRACTITIONERS

# Lifetime CDL Disqualification for a Conviction of Human Trafficking in a CMV

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# Human Trafficking Working Group Members

**Aaron Ann Cole**

Consultant, National Center for State Courts (NCSC)

[www.ncsc.org](http://www.ncsc.org)

**Derek Felton**

Director of Creative Learning Services, National Center for State Courts (NCSC)

[www.ncsc.org](http://www.ncsc.org)

**Jannet Okazaki**

Principal Court Management Consultant, National Center for State Courts (NCSC)

[www.ncsc.org](http://www.ncsc.org)

**Kristen Shea**

Senior Programs Analyst, American Association of Motor Vehicle Administrators (AAMVA)

[aamva.org/technology/systems/driver-licensing-systems/cdlis](http://aamva.org/technology/systems/driver-licensing-systems/cdlis)

**Bella Truong**

Senior Attorney, National Traffic Law Center (NTLC) – National District Attorneys Association (NDAA)

[www.ndaa.org/commercial-drivers-license](http://www.ndaa.org/commercial-drivers-license)

**Hon. Chris Turner (ret.)**

Commercial Vehicle Safety Alliance (CVSA)

[cvsa.org/programs/human-trafficking-prevention/](http://cvsa.org/programs/human-trafficking-prevention/)

**Hon. Gayle Williams-Byers (ret.)**

Judicial Fellow, National Judicial College (NJC)

[cdlresources.org/human-trafficking-resources/](http://cdlresources.org/human-trafficking-resources/)



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# Introduction

Human trafficking is a grave violation of human rights and a serious criminal offense that often intersects with the commercial transportation industry. It involves the exploitation of individuals through force, fraud, or coercion for the purposes of forced labor or commercial sex. Since tracking began in 2007, the National Human Trafficking Hotline has identified 112,822 cases of human trafficking involving 218,568<sup>1</sup> victims and survivors in the United States alone.

The “No Human Trafficking on Our Roads Act” was passed on January 8, 2018. It requires any person who held, or should have held, a commercial driver’s license (CDL) at the time of the offense, who is convicted of a severe form of trafficking in humans using a commercial motor vehicle (CMV) to be disqualified from operating a commercial motor vehicle for life without the possibility of reinstatement.

Based on this law, the Federal Motor Carrier Safety Administration (FMCSA) amended its list of major offenses (49 CFR § 383.51, Table 1) which result in automatic CDL sanction to include severe forms of human trafficking while operating a CMV. While any felony using any motor vehicle carries at least a one-year loss of a CDL, severe forms of trafficking in humans using a CMV is different. It is sanctioned more severely with a conviction mandating a permanent loss of CDL privilege.

CMV drivers work in a variety of industries, often moving between cities, states, or even across national borders to deliver loads or carry passengers. They are mobile, may work alone or in remote areas, and many lead transitory lives. Truck stops and motels near truck stops serve these drivers. The nature of this work and these environments attract human traffickers to facilitate their crimes. While the vast majority of drivers are law-abiding professionals, a small but dangerous subset use their role to conduct, support, or participate in trafficking activities. The lifetime FMCSA-required CDL loss is designed to separate convicted traffickers from CMV operation. This helps to keep dangerous criminals out of these environments which makes commercial transportation safer and protects vulnerable individuals.

While, on its face, the FMCSA regulation is clear as to what is required for the lifetime disqualification without reinstatement, implementation necessitates that all stakeholders from roadside to record follow specific processes and procedures to ensure the CDL privilege is disqualified, withdrawn, or otherwise removed. Many safety stakeholders play an important part in moving a human trafficking case involving a CDL holder and CMV through the court process. From arrest to adjudication to reporting, it is critical that both the offender’s CDL status and the use of a CMV are documented. This allows law enforcement, prosecutors, judges, and clerks to handle these cases in accordance with the regulation and in a manner which allows the state driver licensing authority (SDLA) to process the CDL sanction appropriately.

Enforcing the lifetime CDL loss for severe forms of trafficking in humans mandate is not only a matter of regulatory compliance—it is a critical step in protecting victims and preserving the integrity of the nation’s transportation system. This primer provides practical guidance for practitioners across the enforcement and adjudication continuum. It offers a roadmap for identifying relevant information to be communicated between organizations to ensure individuals who exploit their commercial driving privileges to commit trafficking are appropriately sanctioned. By following these strategies, practitioners can play a decisive role in removing dangerous actors from behind the wheel of CMVs and affirming that human trafficking has no place on our roads and highways.

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<sup>1</sup> These numbers are current as of 2023.

# Definitions

**AAMVA Code Dictionary (ACD)** AAMVA is a nonprofit membership organization of state driver licensing authorities which produces a manual that contains a set of alphanumerical codes (ACD) used nationwide to identify either: (1) the type of conviction, or (2) the reason for a withdrawal.

ACD codes support the goals of accurate driver records, clear conviction and record communication among states, and driver accountability. Each offense has its own corresponding ACD code which comes from AAMVA's *ACD Code Manual* (available to AAMVA jurisdiction members). Convictions received by the licensing authority have a corresponding ACD code which translates the states' criminal offense language into a universal and standard code. The ACD code ensures consistency when states are transmitting conviction information between states (where statutory language or code references vary).

More information about ACD codes is available at [AAMVA.org](http://AAMVA.org).

**Commercial Driver License Information System (CDLIS)** The Commercial Driver License Information System platform is a nationwide computer system that enables state driver licensing agencies (SDLAs) to ensure that each commercial driver has only one driver license and one complete driver record. Commercial drivers, in particular, may be driving outside of their domiciled or home state. The goal is to share information on driving behavior (to include felonies such as human trafficking) for CDL holders among all 50 states and the District of Columbia so that each state of record (meaning the state that licensed the driver) can exercise informed control over that driving privilege.

SDLAs use CDLIS to complete commercial driver's license (CDL) procedures such as transmitting out-of-state convictions and withdrawals, transferring the driver record when a commercial driver's license holder moves to another state, and responding to requests for driver status and history.

The CDLIS Central Site, operated by American Association of Motor Vehicle Administrators (AAMVA), assists jurisdictions with driver identification data, giving SDLAs real-time record updates and matching services and points to a matched driver's state of record (SOR). The site processes the CDLIS inquiry-and-update transactions with its application programs.

**State Driver Licensing Agency (SDLA)** The entity in the state or territory that is responsible for issuing (commercial) driver's licenses and keeping the driver history record accurate and up-to-date.

**State of Conviction (SOC)** The state in which a driver is convicted and which maintains the original record of the conviction.

**State of Inquiry (SOI)** The jurisdiction's SDLA that requests information about the driver from the SOR.

**State of Record (SOR)** The state SDLA that maintains the driver history record.

**State of Withdrawal (SOW)** The jurisdiction SDLA that withdraws a driver and maintains the original record of the withdrawal.



# Law Enforcement's Role

Officers may be more aware of prevailing Human Trafficking and other commercial driver's license (CDL) mandated sanctions than prosecutors or courts which rarely handle these matters. Every case is an opportunity to share information on these mandates. Law enforcement is the first step in a complicated process, with the ultimate aim of making sure laws are followed and unsafe drivers are removed from the road. Stakeholders, along with the adjudication and reporting cycle, rely on the information law enforcement officers provide, starting at the roadside.

## Stop and Initial Contact

Watch for these indicators of human trafficking:

- Is the older male/female with young males/females not of the same family?
- Is the passenger(s) dressed inappropriately for the weather or time of day?
- Does the passenger display signs of malnourishment, bruises, cuts, or other physical signs of abuse?
- Is the suspected trafficker exerting physical or verbal control? Are they squeezing a leg, holding an arm tightly, holding the person close with an arm around him/her? Are they answering for the suspected victim?
- Is the passenger not in possession of their money or identification?
- Is the passenger exhibiting a lack of knowledge about their whereabouts?
- Is there not enough luggage for the number of vehicle occupants?
- If drugs and/or weapons are found, is the passenger aggressive in taking blame?
  - Protecting the trafficker is essential.
  - Punishment is extreme if the trafficker gets in trouble.
  - Victims are intimidated into lying for the trafficker or noncooperation with law enforcement.
- Is the passenger making eye contact with the trafficker but not you? Are their head or eyes down?
- Is the passenger displaying body language that shows they do not want to be there? Do they seem uncomfortable or are they making themselves small?

### Separate the Victim and Trafficker

Victim centered approach:

- Treat people as potential victims—with dignity, kindness, value, and respect—even before you know whether this is a trafficking situation or not.
- Do not use harmful words about victims; do not refer to them as prostitutes or other derogatory slang.
- Minors can never legally consent to sex. All commercial sex with minors is rape. Perpetrators of these crimes are traffickers.
- Give victims extra time; they do not trust law enforcement.
- Take plenty of time to correctly assess the situation and the people you think are victims.
- Ask about the passenger's family/friends/home. Are they estranged?
- Make sure the victim is okay from the beginning. Make the victim as comfortable and secure as possible. Understand that the victim has in all likelihood experienced physical and emotional trauma as well as substance abuse.
- If possible, have a safe housing option immediately available for the victim.

### Partnerships

- Have resources with you and offer them to the victim.
  - National Human Trafficking Hotline (1.888.373.7888)
  - Local help (YWCA, shelters, food banks, and other community-based organizations)
- Create partnerships with local carriers, trucking associations, truck rest stops, advocacy organizations, non-profits, and state-run facilities such as SDLAs, rest areas, etc.
  - Early involvement of victim advocacy groups can help support the victim through the prosecution process and beyond as they rebuild their lives.
  - There are more professional truckers than law enforcement.
  - Work to train these additional resources using [spell out?] (TAT) materials—work with trucking schools, trucking companies.
  - Distribute TAT materials (i.e., posters and driver wallet cards) in all partnership locations.
  - Include owners/employees at hotels, malls, casinos, and convenience stores.

### Report/Citation

The following elements are critical to any case involving a CDL holder/commercial motor vehicle (CMV) driver accused of a severe form of trafficking in humans. Accurate reporting is essential to the ultimate adjudication of the case and disqualification of the CDL. Use this checklist or your own jurisdiction's established protocol to write a detailed report that includes at least the following critical elements:

- Type of license/endorsements of driver (did the driver have a CDL or any endorsements?)
- Driver's license/CDL number
- Type of vehicle used (is this vehicle a CMV or not?)
- Was the vehicle designed for 16 or more people?
- Vehicle Identification Number (VIN)
- Did the vehicle have hazmat placards?
- Indicators of severe form of trafficking in humans
  - Force, fraud, or coercion
  - Sexual or labor servitude

### If No Report

Consider entering the passenger as a suspected victim or the trafficker into your computer aided dispatch for the next contact. This will create a record of contact and increase officer safety, and could increase the likelihood of future victim assistance.

Officer consideration: It often can take more than one contact with a victim of human trafficking before a victim will talk with an officer or victim's advocate to accept help.

- Report and give the victim the National Human Trafficking Hotline number (1.888.373.7888) or direct the victim to this link for local resources: [humantraffickinghotline.org/en/find-local-services](https://humantraffickinghotline.org/en/find-local-services).



# Prosecutor's Role

## Identify Cases that Impact a Commercial Driver's License (CDL)<sup>2</sup>

- Run license records for all cases possibly involving trafficking in persons, both sex and labor.
- Review cases to identify if a vehicle or commercial motor vehicle (CMV) was used in the commission of the crime.
- Mark cases to alert other prosecutors that those cases either involve: (1) a severe form of trafficking in persons using a CMV or (2) that the defendants are CDL holders and used a vehicle in the commission of a felony.

## Review Charges and Relevant Prior History

- Review state law to determine elements of severe forms of trafficking in persons charges.
- Review federal statute regarding severe forms of trafficking in persons.

### 22 U.S. Code § 7102 – Definitions

(11) Severe forms of trafficking in persons

The term "severe forms of trafficking in persons" means—

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. Identify if any other charges trigger disqualification.

- In addition to the substantive elements of the charges, make sure CDL and vehicle information are documented.

## Charging

- Compare state statute to the federal definition of severe forms of trafficking in persons.
  - If state statute includes all elements of the federal definition, ensure charging language includes all of those elements.
  - If state statute does not include all elements of the federal definition but the facts of the case support severe forms of trafficking in persons, review state laws regarding notice and requirements of proof of collateral consequences.

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<sup>2</sup> Explain what is necessary for each case—CMV if severe forms of trafficking in humans, CDL required if felony using a vehicle.

- Consider what the notice requirement is for collateral consequences in your state, what your state requires in terms of proving a fact for collateral consequences, at what stage of adjudication, and who makes the determination regarding collateral consequences.
- Ensure that your charges and charging language are sufficient for a severe form of trafficking in persons using a CMV. If the charge does not rise to the level of severe form of trafficking in persons using a CMV, evaluate if the charge involves a CDL holder using any vehicle in the commission of any felony.
- Upon formal arraignment, ensure defendant is noticed that there are potential collateral consequences impacting a CDL.

## Plea Offers

- Identify if there are any legal or factual issues with the case. Review the federal regulation prohibiting masking.

### **49 C.F.R. § 384.226 Prohibition on masking convictions.**

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

- If there are either legal or factual issues with the case, where an offer is ethically proper, include in the written plea offer and subsequent agreement that the defendant's CDL may potentially be impacted by a conviction. Ensure a good record is made as to the legal or factual issues warranting the disposition.

## Conviction

- Determine the proper stage of adjudication for the presentation of evidence pertaining to CDL disqualification.
- If the case goes to trial, review your state laws regarding evidence supporting CDL disqualification and whether presentation of evidence is required during the case in chief and/or during sentencing.
- If the case resolves as a plea, include evidence supporting CDL disqualification in the factual basis to support the plea. In your plea disposition, it is important to include both a statement that CDL disqualification will result in accordance with statutory mandates and evidence to support that disqualification.
- Whether by trial or plea, ensure enough evidence is presented for a judge to make findings that:
  - Defendant was a CDL/CLP holder or required to have a CLP or CDL.
  - Defendant was operating a CMV.
  - Defendant was operating any vehicle.
  - Elements that make it a severe form of trafficking in persons—or any felony if convicted of a lesser or different felony charge.

### Reporting

- Ensure that judgment includes findings made by judge (above).
- Ensure that the proper human trafficking conviction statute number associated with the ACD code related to a severe form of trafficking in persons CDL disqualification is used in the judgment form.
- Inform the court clerk that this information needs to be electronically transmitted to SDLA.
- Follow up with SDLA that sufficient information was received to trigger disqualification.

Records should be run on all traffic cases and all cases included on disqualification tables, as all of those cases are subject to the masking prohibition.

# Judge's Role

## Arraignment

- Review the Constitutional and statutory rights of the defendant, specific nature of charges, maximum penalties, and appointment of counsel (if desired).
- Inquire as to whether the defendant is a valid commercial driver's license (CDL) holder. Issue a standing order to prosecution to provide the court with a certified driving record issued from the home state—necessary for bond purposes, flight risk, work history, CDL license history (did the defendant have a CDL on date of offense?).
- Provide notice of charge(s) on the record as well as nuanced definition of "conviction" for CDL holders during case pendency.
- Provide adequate notice of collateral consequences and impact of conviction including applicable mandatory penalties such as point application and/or license suspension.
  - Inform defendant that a charge alleging "Serious forms of trafficking in persons" using a commercial motor vehicle (CMV) requires a lifetime suspension of the CDL upon conviction.
  - Inform defendant that any felony (to include non-severe forms of trafficking in persons) charge(s) using a vehicle requires no less than a one-year suspension of the CDL upon conviction.
- Memorialize Journal Entry with specific finding of notice to defendant of specific charges and penalties that impact CDL status upon conviction of felony charges.

## Pre-Trial/Plea Negotiations

- Require prosecution to outline, in open court, the specific plea offer/agreement on the record including charge elements related to committing offenses that are "Serious forms of trafficking in persons" while operating a Commercial Motor Vehicle and/or the element(s) of any felony offense committed using a vehicle while holding a validly issued Commercial Driver's License. Said offer/agreement should not offend the anti-masking prohibition.
- Outline to defendant the impact of accepting prosecution's plea offer/agreement. Review Constitutional and statutory rights of defendant, specifically those rights waived as part of the plea negotiation and maximum penalties faced for conviction charge(s)—including collateral penalties related to CDL.
- If a plea offer/agreement is accepted by the court and entered by the defendant, the court should make the following *specific findings on the record*:
  - Defendant's plea is made knowingly, voluntarily, and intelligently.
  - Defendant understands and waives all trial rights as outlined by the court.
  - As part of the plea, defendant waives certain rights to appeal the charge and/or sentence, once imposed.

- Defendant understands and acknowledges that s/he held or should have held a Commercial Driver's License or Commercial Learner's Permit that a conviction of the offense of [INSERT NAME AND DESCRIPTION OF FELONY OFFENSE] shall result in the statutory imposition of a mandatory disqualification of the defendant's CDL or privilege to operate a CMV—meaning the state driver license agency will disqualify the privilege—for a period of [INSERT SUSPENSION PERIOD].
- Defendant enters said plea with the full knowledge of the penalties related to the underlying offenses as well as the collateral sanctions as outlined by the court.
- Accept a plea of guilty by defendant and determine if a Presentence Investigation (PSI) is appropriate.
- Memorialize Journal Entry with specific finding of notice regarding defendant's status as a CDL holder and specific penalties to be imposed upon pronouncement of sentence.

## Sentencing

- Review the plea defendant entered on the record at the previous court hearing.
- If the sentence is the result of a verdict, review the verdict and finding of court or jury.
- Hold a sentencing hearing if applicable and determine if sufficient evidence was presented to make findings supporting a CDL disqualification.
- If applicable, outline in open court and on the record that defendant holds or at the time of the offense, held, a validly issued Commercial Driver's License that is subject to mandatory suspension with the pronouncement of the sentence.
- Outline on the record that defendant's conviction is pursuant to the elements of the charge(s) and a finding that defendant either (a) committed a "Serious form of trafficking in persons" while operating a Commercial Motor Vehicle or (b) committed a felony offense using a vehicle as a validly licensed Commercial Driver's License holder.
- Provide survivors, prosecution, defense counsel, and defendant opportunity to be heard prior to pronouncement of sentence.
- Pronounce sentence and include all mandatory penalties specific to Commercial Driver's License.
- For verdict, outline defendant's right to appeal both verdict and sentence. Appoint appellate counsel, if appropriate.
- Memorialize Journal Entry or Court Order with specific findings and conclusions related to defendant's status as a sanctioned/convicted CDL holder with mandatory penalties clearly outlined.
- Order court clerk to transmit the conviction with relevant findings and conclusions to disqualify privilege to state driver license agency.

# Court Clerk's Role

## Identify Convictions

- If a clerk receives a conviction that involves human trafficking, the clerk should check if the conviction is for:
  - Severe forms of trafficking in persons using a commercial motor vehicle (CMV) (pursuant to their state statute);
  - Lesser included felony offenses (of severe forms of trafficking in persons using a CMV) such as attempt or facilitation which would be equivalent to the principal charge of severe form of trafficking in persons; or
  - Any felony offense using any motor vehicle and the defendant is a commercial drivers license (CDL)/ commercial learner's permit (CLP) holder.
- If the conviction is for any of these offenses, mandatory conviction reporting to the SDLA<sup>3</sup> and CDL sanction regulations apply.

## Check Judgment Accuracy

- Clerks are instrumental in assuring convictions are transmitted with complete and accurate data. Clerks should review the judgment for the following:
  - Conviction (and license sanction) statutes
  - Driver identification data to include name, date of birth, social security number, state of driver's license issuance, driver's license number, CDL status and endorsements
  - Involvement of CMV (noting the presence of placardable hazardous materials)
- Clerks check to make sure any statutes of conviction (and/or statute that mandates a commercial or non-commercial license sanction) are accurately transmitted to the SDLA.
- The clerk can refer incomplete or inaccurate conviction records back to the court of jurisdiction for correction.

## Transmit Conviction

Clerks must accurately transmit conviction data to the SDLA quickly enough to allow the SDLA to report the violation within ten days of conviction. Clerks can communicate with the SDLA to ascertain the best format and procedures for timely submission of convictions.

<sup>3</sup> SDLA (State Driver License Agency) refers to the authority in charge of administering DLs and CDLs; i.e., Department of Motor Vehicles, Department of Licensing, Department of Revenue, etc.



### Recommendations

#### FOLLOW UP

It is imperative that clerks transmit convictions and associated documentation properly in such a format that the SDLA can take necessary actions regarding reporting, recording, and disqualification. Until procedures are well established, communicate with the SDLA's CDL Coordinator or responsible party to make sure that any human trafficking conviction carrying a CDL sanction has been received and is sufficient for legally mandated licensing action.

#### DOCUMENTATION

Clerks should work with any other court staff to document the technical steps necessary to comply with reporting requirements. Recording the proper CDL conviction reporting steps and providing these to the clerks handling these convictions can further support accurate and timely transmittals. This documentation can be used in internal training and onboarding.

#### TRAINING

To ensure clerks maintain awareness of their state's best practice transmittal procedures specific to CDL/CMV related convictions (such as severe forms of trafficking in persons using a CMV), training and other educational opportunities are necessary. Safety stakeholders and criminal justice partners offer resource materials and training which can be invaluable. Regular training can provide clerks with the information necessary to accurately and timely report convictions.

# State Driver License Agency's Role

**SDLA Processes:** Each state (and the District of Columbia) uses CDLIS and other platforms to exchange information about commercial driver's license (CDL) drivers, traffic convictions, and disqualifications.

## Conviction Received

A SDLA may receive a notice of conviction directly from a court or other SDLA.

- Typically, electronic, and with diminishing frequency paper, convictions come from the clerk of the court to the SDLA within the same state as the state of conviction (SOC).
- The court in the state where the offense occurred (*not necessarily where the driver is licensed*) will hear and adjudicate the case.
- The SDLA may also receive a notice of conviction from the SOC which has forwarded the conviction to the state of record (SOR) (explained below).

## Conviction Reviewed

As part of their standard processes, and whether a conviction occurs in the SOR or another state, the SDLA staff reviews the conviction.

- The conviction will have identifying information necessary to match the defendant with the appropriate driver history record.
  - First and last name
  - Date of birth
  - Address
  - Case number—Court reporting ID
  - Driver's license number (if available)—to help determine CDL status
  - Other relevant identifying information
- The record of conviction should include sufficient detail to identify the offense and alert the SDLA in case of mandatory CDL sanctions.
  - Offense occurrence AND conviction date
  - Statute of offense
  - Finding (Guilty, Nolo Contendere, etc.)
- By the time a conviction reaches the SDLA, an ACD code will be attached to it based on the offense. If the clerk of the court has not attached an ACD code, the SDLA may do so.

- Each ACD code applies to a separate crime or violation. The ACD code ensures consistency when states are transmitting conviction information between states (where statutory language/code references vary) and serves as a sort of universal language for conveying conviction information.
- The SDLA will review the information including:
  - ACD code
  - Description of offense

### Conviction Level of Offense Assessed

The SDLA determines if the offense is a major, serious, etc. level offense (pursuant to relevant FMCSRs).

- When the ACD code/description of offense is a major offense (49 CFR 383.51), the SDLA follows established procedures (which incorporate all relevant state and federal mandates).
  - This includes reporting it to the driver record.
  - As appropriate, apply a sanction/withdrawal to the CDL privilege.
- Consider that serious and other categories of offenses may require mandatory sanctions and fall under masking prohibitions.
  - **Conviction reviewed for human trafficking.** If the conviction appears to be for a severe form of trafficking in persons that has occurred in a commercial motor vehicle (CMV), and the SDLA receiving the conviction is the SOR for that driver, it will post (as with any traffic control law offense) the conviction on the driver history record (which is a subset of the CDLIS information system).
- The SOR posts and confirms the posting of this report of a conviction or withdrawal within 10 days (49 CFR §384.225(c)) after receiving the conviction.
- The SDLA will also impose the requisite mandatory lifetime disqualification (without the possibility of reinstatement) on the driver's record.
- Note that a lesser offense stemming from a human trafficking case—if a felony which occurred through the use of a motor vehicle—is a major offense which will require at least a one-year CDL disqualification.

### Conviction Reviewed for Out-of-State Driver

Part of the review process will be ascertaining if the driver holds a CDL in the SOC or a different state.

- If the SDLA is not the SOR for that driver, it is responsible for forwarding the severe form of trafficking in persons (or lesser included felony) conviction on to the SOR.
  - Once the conviction is received from the SOC, the SOR posts and confirms the posting of a report of a conviction or withdrawal within 10 days (49 CFR §384.225(c)) after receiving the report.
  - It also applies the same sanctions or withdrawals explained above.

- Follow-up may be necessary.
  - If the SOC or SOR receives notice of a conviction that does not have sufficient information on the identity of the driver or the nature of the offense, the SDLA can reach out for more information.
  - The SOC may choose to inquire with the clerk of the court from which the conviction originated while the SOR may contact the SOC which forwarded the conviction.
  - Jurisdictions may choose to select certain convictions for follow-up to make sure records are accurately reflecting desired input.

### Resources

All SDLAs in the United States are members of AAMVA and can visit the AAMVA ([aamva.org/technology/systems/driver-licensing-systems/cdlis](https://aamva.org/technology/systems/driver-licensing-systems/cdlis)) website for more information/training on processing CDL convictions and conviction/record retention requirements.

