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49 CFR 391.11

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§ 391.11 General qualifications of drivers.

(a) A person shall not drive a commercial motor vehicle unless he is qualified to drive a commercial motor vehicle. Except as provided in § 391.63, a motor carrier shall not require or permit a person to drive a commercial motor vehicle unless that person is qualified to drive a commercial motor vehicle.

(b) Except as provided in subpart G of this part, a person is qualified to drive a motor vehicle if he/she --

- (1)** Is at least 21 years old;
- (2)** Can read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records;
- (3)** Can, by reason of experience, training, or both, safely operate the type of commercial motor vehicle he/she drives;
- (4)** Is physically qualified to drive a commercial motor vehicle in accordance with subpart E -- Physical Qualifications and Examinations of this part;
- (5)** Has a currently valid commercial motor vehicle operator's license issued only by one State or jurisdiction;
- (6)** Has prepared and furnished the motor carrier that employs him/her with the list of violations or the certificate as required by § 391.27;
- (7)** Is not disqualified to drive a commercial motor vehicle under the rules in § 391.15; and
- (8)** Has successfully completed a driver's road test and has been issued a certificate of driver's road test in accordance with § 391.31, or has presented an operator's license or a certificate of road test which the motor carrier that employs him/her has accepted as

equivalent to a road test in accordance with § 391.33.

Statutory Authority

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

[49 U.S.C. 504](#), 508, 31133, 31136, 31149, 31502; sec. 4007(b), Pub. L. 102-240, [105 Stat. 1914, 2152](#); sec. 114, Pub. L. 103-311, [108 Stat. 1673, 1677](#); sec. 215, Pub. L. 106-159, [113 Stat. 1748, 1767](#); sec. 32934, Pub. L. 112-141, [126 Stat. 405, 830](#); secs. 5403 and 5524, Pub. L. 114-94, [129 Stat. 1312, 1548, 1560](#); sec. 2, Pub. L. 115-105, [131 Stat. 2263](#); and [49 CFR 1.87](#).

History

[\[35 FR 6460](#), Apr. 22, 1970, amended at [35 FR 17420](#), Nov. 13, 1970; [35 FR 19181](#), Dec. 18, 1970; [36 FR 222](#), Jan. 7, 1971, [36 FR 24220](#), Dec. 22, 1971; [45 FR 46424](#), July 10, 1980; [52 FR 20589](#), June 1, 1987; [59 FR 60323](#), Nov. 23, 1994; [60 FR 38744, 38745](#), July 28, 1995; [63 FR 33254, 33276](#), June 18, 1998]

▼ Annotations

Case Notes

**NOTES TO DECISIONS: COURT AND ADMINISTRATIVE DECISIONS
SIGNIFICANTLY DISCUSSING SECTION --**

[Albertson's, Inc. v Kirkingburg \(1999\) 527 US 555, 144 L Ed 2d 518, 119 S Ct 2162](#)

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[Bay v. Cassens Transp. Co., 212 F.3d 969, 2000 U.S. App. LEXIS 9625](#) (7th Cir May 11, 2000).

Overview: *Summary judgment was properly entered for an employer in a long-haul truck driver's ADA action because the long-haul truck driver lacked a DOT driving certification and failed prove he was qualified to perform the essential functions of his job.*

- Under the Americans with Disabilities Act (ADA), [42 U.S.C.S. § 12101](#) et seq., an employer may have a defense to a charge of discrimination if an action is required or necessitated by another federal law or regulation. [29 C.F.R. § 1630.15\(e\)](#). Under applicable Department of Transportation regulations, an employer is not allowed to permit an employee truck driver to resume driving until he produced a copy of a doctor's certificate indicating he was physically qualified to drive, [49 C.F.R. § 391.11\(a\)](#); [49 C.F.R. § 391.41\(a\)](#), and nothing in the ADA purports to change that obligation. [Go To Headnote](#)

⬆ Civil Rights Law : Protection of Disabled Persons : Americans With Disabilities Act : Scope

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⬆ Criminal Law & Procedure : Criminal Offenses : Vehicular Crimes : General Overview

[EEOC v. J.B. Hunt Transp., Inc., 321 F.3d 69, 2003 U.S. App. LEXIS 1966](#) (2d Cir Feb. 5, 2003).

Overview: *EEOC suit on behalf of applicants for over the road trucking jobs failed because their inability to perform the particular job did not constitute a substantial limitation in the major life activity of working, nor were they perceived to be disabled.*

- The Department of Transportation's (DOT) Federal Motor Carrier Safety Act Regulations, [49 C.F.R. § 301](#) et seq. (2001), establish minimum qualifications for any person driving a commercial motor vehicle, as well as minimum duties for motor carriers using over-the-road drivers. The regulations specifically allow an operator to require and enforce more stringent requirements relating to safety of operation and employee safety and health, [49 C.F.R. § 390.3\(d\)](#), and require operators to restrict drivers from operating vehicles while the driver's ability or alertness is so impaired, or so likely to become impaired, through fatigue, illness, or any other cause, as to make it unsafe for him/her to begin or continue to operate the commercial motor vehicle. [49 C.F.R. § 392.3 \(2001\)](#). A motor carrier is required to ensure that drivers do not operate unless they are in compliance with the DOT regulations. [49 C.F.R. §§ 391.11, 392.3, 392.4\(b\)\(2001\)](#). [Go To Headnote](#)

Criminal Law & Procedure : Criminal Offenses : Vehicular Crimes : License Violations : General Overview

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Governments : Federal Government : U.S. Congress

[Harris v. P.A.M. Transp., Inc., 334 F.3d 757, 2003 U.S. App. LEXIS 13456](#) (8th Cir July 2, 2003).

Overview: *The employee had failed to exhaust the administrative remedies available under the DOT regulations such that it required dismissal of his action. The employee could not establish he was physically qualified to perform the job function.*

- Congress has given the Department of Transportation (DOT) the sole discretion to set driver qualifications, and DOT regulations clearly require a medical examiner's certificate of physical qualification, [49 C.F.R. § 391.41\(a\)](#). [49 C.F.R. § 391.11](#) states that a motor carrier shall not permit a person to drive a commercial motor vehicle unless that person

is qualified to drive under the physical qualification standards. When Congress enacted the Americans with Disabilities Act (ADA), [42 U.S.C.S. § 12101](#) et seq., it recognized that federal safety rules would limit application of the ADA as a matter of law. A person with a disability applying for or currently holding a job subject to DOT standards for drivers must be able to satisfy these physical qualification standards in order to be considered a qualified individual with a disability under the ADA. [Go To Headnote](#)

International Trade Law : General Overview

[International Bhd. of Teamsters v. Pena, 17 F.3d 1478, 1994 U.S. App. LEXIS 4524](#) (DC Cir Mar. 15, 1994).

Overview: *A Federal Highway Administration rule allowing mutual recognition of commercial drivers' licenses between the United States and Mexico was not invalid because its licensing criteria were not more lax than those used for drivers in the United States.*

- In the United States, federal regulations stipulate that people who drive commercial motor vehicles in interstate or foreign commerce must be at least 21 years old, [49 C.F.R. § 391.11\(b\)\(1\)](#); be able to read and speak English, [49 C.F.R. § 391.11\(b\)\(2\)](#); and (with certain exceptions) adhere to limits on hours of service, [49 C.F.R. § 395](#). [Go To Headnote](#)

Labor & Employment Law : Discrimination : Disability Discrimination : Employment Practices :

[Williams v. J.B. Hunt Transp., Inc., 2016 U.S. App. LEXIS 11170](#) (5th Cir June 20, 2016).

Overview: *A trucking company was granted summary judgment on a driver's ADA claim where a physician had rescinded the driver's DOT certification months before his termination, the driver did not seek review under [49 C.F.R. § 391.47](#), and as a result, the driver failed to establish that he was qualified for the job in question.*

- Courts consistently hold that an employment action based upon an employee's or prospective employee's inability to satisfy United States Department of Transportation (DOT) medical standards does not violate disability discrimination laws. Otherwise, motor-carrier employers would face the dilemma of risking Americans with Disabilities Act (ADA) liability or violating the DOT's command that a motor carrier shall not permit a person to drive a commercial motor vehicle unless that person is qualified under the agency's safety regulations. [49 C.F.R. § 391.11](#). Applying this logic and recognizing the DOT's greater expertise in applying its medical-certification regulations, three circuits reject commercial drivers' ADA claims when a doctor found the plaintiff medically unqualified and the plaintiff did not obtain a contrary opinion through the DOT's administrative process. [Go To Headnote](#)

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Labor & Employment Law : Employee Privacy : Alcohol & Drug Testing

[Yellow Freight System, Inc. v. Amestoy](#), 736 F. Supp. 44, 1990 U.S. Dist. LEXIS 4945 (D Vt Apr. 25, 1990).

Overview: *The Vermont Drug Testing Act stood as an obstacle to accomplishment of federal legislative aims as expressed in federal motor carrier safety regulations permitting drug testing of drivers for interstate carriers and was preempted by federal law.*

- By the express terms of federal motor carrier safety regulations, a driver who uses drugs is not physically qualified to drive, and thus is not permitted to drive a commercial motor vehicle. Both employer and employee have an affirmative duty to ensure that only qualified drivers operate commercial motor vehicles: A person shall not drive a motor vehicle unless he is qualified to drive a motor vehicle. A motor carrier shall not require or permit a person to drive a motor vehicle unless that person is qualified to drive a motor vehicle. [49 C.F.R. § 391.11\(a\)](#). [Go To Headnote](#)

Labor & Employment Law : Employee Privacy : Medical & Related Examinations

[Yellow Freight System, Inc. v. Amestoy](#), 736 F. Supp. 44, 1990 U.S. Dist. LEXIS 4945 (D Vt Apr. 25, 1990).

Overview: *The Vermont Drug Testing Act stood as an obstacle to accomplishment of federal legislative aims as expressed in federal motor carrier safety regulations permitting drug testing of drivers for interstate carriers and was preempted by federal law.*

- The Federal Highway Administration (FHWA) has promulgated a set of federal motor carrier safety regulations (the FMCSRs). The FMCSRs require drivers for interstate carriers to undergo a medical examination at least every two years so that they may be certified as physically qualified to operate a motor vehicle. [49 C.F.R. § 391.45\(b\)](#). If, at any time, a driver is no longer qualified to operate a motor vehicle, he is not permitted to continue driving. [49 C.F.R. § 391.11\(a\)](#). The FMCSRs direct, inter alia, that a driver is not physically qualified to operate a motor vehicle if he uses specified drugs. [49 C.F.R. § 391.41\(b\)\(12\)](#). [Go To Headnote](#)

Torts : Business Torts : Negligent Hiring & Supervision

[Downing v. UPS](#), 215 F. Supp. 2d 1303, 2002 U.S. Dist. LEXIS 15164 (MD Fla July 23, 2002).

Overview: *There was a question of fact as to whether the employer discriminated against*

an employee who was deaf based on the employer's refusal to promote the employee to the position of part-time air exception driver.

- [49 C.F.R. § 391.11](#) prohibits an employer from allowing a person to drive a commercial vehicle if that person does not meet the necessary requirements. [Go To Headnote](#)

Transportation Law : Bridges & Roads : U.S. Federal Highway Administration

[Yellow Freight System, Inc. v. Amestoy](#), 736 F. Supp. 44, 1990 U.S. Dist. LEXIS 4945 (D Vt Apr. 25, 1990).

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Transportation Law : Carrier Duties & Liabilities : Hazardous Materials

[United States v. Abreu](#), 730 F. Supp. 1018, 1990 U.S. Dist. LEXIS 1350 (D Colo Feb. 6, 1990).

Overview: *A trial court declined to adopt the joint venture theory of standing to contest the validity of a search and seizure because the joint venture theory did nothing more than confer standing on the mere basis of status as a criminal conspirator.*

- Pursuant to Colo. Rev. Stat. § 42-4-234(3), Colorado adopted the safety and hazardous materials regulations in effect in 1987 of the United States Department of Transportation's Hazardous Materials and Motor Carrier Safety Regulations set forth in 49 C.F.R. pts. 100-399. Similar objectives are stated at 49 U.S.C.S. app. §§ 2501, 2502, and [49 C.F.R. §§ 177.800](#), 350.7. The regulations inform interstate carriers and operators that inspections will be made at fixed weigh and check stations. The regulations include the requirements that drivers must be 21 years old, have a currently valid commercial motor vehicle operator's license, and a medical examiner's certificate that he is physically qualified to drive. [49 C.F.R. §§ 391.11\(a\)](#), (b), 391.41(a). The North American Uniform Out-of-Service Criteria dated February 15, 1989, provide that when a driver is not at least 21 years old or is not licensed to operate the class and type of vehicle being operated, the enforcement officer is to remove the driver and preclude further operation of the vehicle. [Go To Headnote](#)

Transportation Law : Commercial Vehicles : General Overview

[EEOC v. Allied Sys., Inc.](#), 36 F. Supp. 2d 515, 1999 U.S. Dist. LEXIS 1818 (ND NY Feb. 19, 1999).

Overview: *Where a medical certificate issued according to a collective bargaining agreement was required before an injured worker could resume work, failure to provide the certificate disqualified the worker from one of the essential functions of the job.*

- Department of Transportation regulations require operators of commercial motor vehicles to be physically qualified and to have in their possession a valid Medical Examiner's Certificate. [49 C.F.R. § 391.41](#) et seq. Motor carriers are prohibited from permitting any person who is not in compliance with the applicable regulations to drive a commercial motor vehicle. [49 C.F.R. § 391.11\(a\)](#). [Go To Headnote](#)

Transportation Law : Commercial Vehicles : Licensing & Registration

[Williams v. J.B. Hunt Transp., Inc., 2016 U.S. App. LEXIS 11170](#) (5th Cir June 20, 2016).

Overview: *A trucking company was granted summary judgment on a driver's ADA claim where a physician had rescinded the driver's DOT certification months before his termination, the driver did not seek review under [49 C.F.R. § 391.47](#), and as a result, the driver failed to establish that he was qualified for the job in question.*

- Courts consistently hold that an employment action based upon an employee's or prospective employee's inability to satisfy United States Department of Transportation (DOT) medical standards does not violate disability discrimination laws. Otherwise, motor-carrier employers would face the dilemma of risking Americans with Disabilities Act (ADA) liability or violating the DOT's command that a motor carrier shall not permit a person to drive a commercial motor vehicle unless that person is qualified under the agency's safety regulations. [49 C.F.R. § 391.11](#). Applying this logic and recognizing the DOT's greater expertise in applying its medical-certification regulations, three circuits reject commercial drivers' ADA claims when a doctor found the plaintiff medically unqualified and the plaintiff did not obtain a contrary opinion through the DOT's administrative process. [Go To Headnote](#)

[Hawkins v. Schwan's Home Serv., 778 F.3d 877, 2015 U.S. App. LEXIS 2599](#) (10th Cir Feb. 19, 2015).

Overview: *In this ADAA action, grant of summary judgment to employer was affirmed because DOT certification was an essential function of the facility-supervisor position where the daily exposure to company vehicles and product shipments created a strong, constant potential that the employee might need to possess certification to drive a DOT-regulated truck.*

- The federal motor-safety regulations preclude a person from driving a commercial motor vehicle unless he/she is qualified to drive, [49 C.F.R. § 391.11\(a\)](#), by, inter alia, being medically certified as physically qualified to do so, [49 C.F.R. § 391.41\(a\)\(1\)\(i\)](#). The validity of these regulations is unchallenged, they have the force of law, and they contain no qualifying language about individualized determinations. [Go To Headnote](#)

[Hampton v. Reliance Std. Life INS. Co., 769 F.3d 597, 2014 U.S. App. LEXIS 19098](#) (8th Cir Oct. 7, 2014).

Overview: *Where claimant was diagnosed with insulin-dependent diabetes mellitus, denial of long-term disability benefits was upheld under ERISA because although physician opined that he would be unable to work as over-the-road truck driver based on regulations, he identified no physical limitations on his ability to do so as direct result of*

his diabetes.

- Regulations of the United States Department of Transportation provide that any person with insulin-dependent diabetes mellitus is not qualified to operate a commercial motor vehicle. [49 C.F.R. §§ 391.11, 391.41\(b\)\(3\)](#). [Go To Headnote](#)

[Allen v. Republic Silver State Disposal, Inc., 2012 U.S. Dist. LEXIS 16589](#) (D Nev Feb. 10, 2012).

Overview: *Employer was entitled to summary judgment on employees' Title VII claims because two employees had not established genuine issue of material fact that they were qualified to be commercial truck drivers at time of their termination, and three employees had not demonstrated that they were treated differently from other similarly situated employees.*

- To be qualified to operate a commercial motor vehicle, an individual must maintain a valid commercial drivers license. [49 C.F.R. § 391.11](#); Nev. Rev. Stat. § 483.924. Further, a commercial motor vehicle driver must undergo a medical examination every 24 months. [49 C.F.R. § 391.45](#). Finally, pursuant to [49 C.F.R. § 391.41\(a\)\(1\)\(i\)](#), a commercial motor vehicle operator must carry a current medical examiner's certificate that he or she is physically qualified to drive a commercial motor vehicle. [Go To Headnote](#)

[Frederick v. Swift Transp. Co., 591 F. Supp. 2d 1156, 2008 U.S. Dist. LEXIS 103814](#) (D Kan Nov. 5, 2008).

Overview: *Expert on safety and trucking was not allowed to testify about the absence of microsleeping because it was not relevant when neither party had produced evidence to show that anyone was microsleeping. He was allowed to testify how methamphetamine affected driving ability under industry safety standards because it was safety, not medically, related.*

- Qualifications for commercial drivers are listed in the Federal Motor Carrier Safety Regulation Part 391.11, which requires that drivers can, by reason of experience, training, or both, safely operate the type of commercial motor vehicle he/she drives. [49 C.F.R. § 391.11\(b\)\(3\)](#). The U.S. Department of Transportation has interpreted this provision to require more training than merely having a commercial driver's license. [Go To Headnote](#)

[Warren v. UPS, 518 F.3d 93, 2008 U.S. App. LEXIS 5027](#) (1st Cir Mar. 7, 2008).

Overview: *District court's instruction on the safety defense under Me. Rev. Stat., tit. 5, § 4573-A was not erroneous because the court instructed that the employer needed to show that it believed that there was a reasonable probability the employee's disability would have endangered safety, and the general guidance of the instruction was correct.*

- Under federal regulations, a driver is required to have a Department of Transportation card to operate any commercial motor vehicle with a gross vehicle weight rating of 10,001 pounds or more. [49 C.F.R. §§ 390.5, 391.11](#). [Go To Headnote](#)

[EEOC v. J.B. Hunt Transp., Inc., 321 F.3d 69, 2003 U.S. App. LEXIS 1966](#) (2d Cir Feb. 5, 2003).

Overview: *EEOC suit on behalf of applicants for over the road trucking jobs failed because their inability to perform the particular job did not constitute a substantial limitation in the major life activity of working, nor were they perceived to be disabled.*

- The Department of Transportation's (DOT) Federal Motor Carrier Safety Act Regulations, [49 C.F.R. § 301](#) et seq. (2001), establish minimum qualifications for any person driving a commercial motor vehicle, as well as minimum duties for motor carriers using over-the-road drivers. The regulations specifically allow an operator to require and enforce more stringent requirements relating to safety of operation and employee safety and health, [49 C.F.R. § 390.3\(d\)](#), and require operators to restrict drivers from operating vehicles while the driver's ability or alertness is so impaired, or so likely to become impaired, through fatigue, illness, or any other cause, as to make it unsafe for him/her to begin or continue to operate the commercial motor vehicle. [49 C.F.R. § 392.3 \(2001\)](#). A motor carrier is required to ensure that drivers do not operate unless they are in compliance with the DOT regulations. [49 C.F.R. §§ 391.11, 392.3, 392.4\(b\)\(2001\)](#). [Go To Headnote](#)

[Downing v. UPS, 215 F. Supp. 2d 1303, 2002 U.S. Dist. LEXIS 15164](#) (MD Fla July 23, 2002).

Overview: *There was a question of fact as to whether the employer discriminated against an employee who was deaf based on the employer's refusal to promote the employee to the position of part-time air exception driver.*

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[International Bhd. of Teamsters v. Pena, 17 F.3d 1478, 1994 U.S. App. LEXIS 4524](#) (DC Cir Mar. 15, 1994).

Overview: *A Federal Highway Administration rule allowing mutual recognition of commercial drivers' licenses between the United States and Mexico was not invalid because its licensing criteria were not more lax than those used for drivers in the United States.*

- In the United States, federal regulations stipulate that people who drive commercial motor vehicles in interstate or foreign commerce must be at least 21 years old, [49 C.F.R. § 391.11\(b\)\(1\)](#); be able to read and speak English, [49 C.F.R. § 391.11\(b\)\(2\)](#); and (with certain exceptions) adhere to limits on hours of service, [49 C.F.R. § 395](#). [Go To Headnote](#)

[United States v. Abreu, 730 F. Supp. 1018, 1990 U.S. Dist. LEXIS 1350](#) (D Colo Feb. 6, 1990).

Overview: *A trial court declined to adopt the joint venture theory of standing to contest the validity of a search and seizure because the joint venture theory did nothing more than confer standing on the mere basis of status as a criminal conspirator.*

- Pursuant to Colo. Rev. Stat. § 42-4-234(3), Colorado adopted the safety and hazardous materials regulations in effect in 1987 of the United States Department of Transportation's Hazardous Materials and Motor Carrier Safety Regulations set forth in 49 C.F.R. pts. 100-399. Similar objectives are stated at 49 U.S.C.S. app. §§ 2501, 2502, and [49 C.F.R. §§ 177.800, 350.7](#). The regulations inform interstate carriers and operators that inspections will be made at fixed weigh and check stations. The regulations include the requirements that drivers must be 21 years old, have a currently valid commercial motor vehicle operator's license, and a medical examiner's certificate that he is physically qualified to drive. [49 C.F.R. §§ 391.11\(a\), \(b\), 391.41\(a\)](#). The

North American Uniform Out-of-Service Criteria dated February 15, 1989, provide that when a driver is not at least 21 years old or is not licensed to operate the class and type of vehicle being operated, the enforcement officer is to remove the driver and preclude further operation of the vehicle. [Go To Headnote](#)

Transportation Law : Commercial Vehicles : Maintenance & Safety

[Parr v. Breeden, 2016 Mo. LEXIS 188](#) (Mo June 7, 2016).

Overview: *Family members of a truck driver who was killed in an accident could not maintain a negligence action against supervisory co-employees because the duties alleged to have been owed to the deceased driver, including duties under federal regulations, were part of the employer's nondelegable duty to provide a safe workplace.*

- The Federal Motor Carrier Safety Regulations prohibit a motor carrier from allowing a driver to operate a commercial motor vehicle when the driver is not physically qualified, which requires the driver to not have a history of or be currently diagnosed with certain medical conditions, including diabetes and cardiovascular disease. [49 C.F.R. §§ 391.11, 391.41\(b\) \(2014\)](#). Further, a motor vehicle carrier cannot permit a driver to operate a commercial motor vehicle when the driver's ability to drive is impaired by fatigue, illness, or any other condition. [49 C.F.R. § 392.3](#). Pursuant to [49 U.S.C.S. § 31135\(a\)](#), each employer and employee must comply with the Federal Motor Carrier Safety Regulations. [Go To Headnote](#)

[EEOC v. Schneider Nat'l. Inc., 481 F.3d 507, 2007 U.S. App. LEXIS 6454](#) (7th Cir Mar. 21, 2007).

Overview: *District court properly granted summary judgment to employer in EEOC enforcement suit. Fact that employer fired truck driver, who had "neurocardiogenic syncope" condition, because he failed to meet employer's safety standards did not prove that employer regarded driver as being disabled under [42 U.S.C.S. § 12102\(2\)\(C\)](#). No violation of ADA occurred.*

- [49 U.S.C.S. § 31136\(a\)\(3\)](#) and [49 C.F.R. §§ 383.5, 391.11\(a\)](#), impose safety standards on anyone who drives, on a public highway, a truck that weighs (with its load) at least 26,001 pounds or is used to transport hazardous materials or at least 16 passengers. [Go To Headnote](#)

[Harris v. P.A.M. Transp., Inc., 334 F.3d 757, 2003 U.S. App. LEXIS 13456](#) (8th Cir July 2, 2003).

Overview: *The employee had failed to exhaust the administrative remedies available under the DOT regulations such that it required dismissal of his action. The employee could not establish he was physically qualified to perform the job function.*

- Congress has given the Department of Transportation (DOT) the sole discretion to set driver qualifications, and DOT regulations clearly require a medical examiner's certificate of physical qualification, [49 C.F.R. § 391.41\(a\)](#). [49 C.F.R. § 391.11](#) states that a motor carrier shall not permit a person to drive a commercial motor vehicle unless that person is qualified to drive under the physical qualification standards. When Congress enacted the Americans with Disabilities Act (ADA), [42 U.S.C.S. § 12101](#) et seq., it recognized that federal safety rules would limit application of the ADA as a matter of law. A person with a disability applying for or currently holding a job subject to DOT standards for

drivers must be able to satisfy these physical qualification standards in order to be considered a qualified individual with a disability under the ADA. [Go To Headnote](#)

[EEOC v. J.B. Hunt Transp., Inc., 321 F.3d 69, 2003 U.S. App. LEXIS 1966](#) (2d Cir Feb. 5, 2003).

Overview: *EEOC suit on behalf of applicants for over the road trucking jobs failed because their inability to perform the particular job did not constitute a substantial limitation in the major life activity of working, nor were they perceived to be disabled.*

- The Department of Transportation's (DOT) Federal Motor Carrier Safety Act Regulations, [49 C.F.R. § 301](#) et seq. (2001), establish minimum qualifications for any person driving a commercial motor vehicle, as well as minimum duties for motor carriers using over-the-road drivers. The regulations specifically allow an operator to require and enforce more stringent requirements relating to safety of operation and employee safety and health, [49 C.F.R. § 390.3\(d\)](#), and require operators to restrict drivers from operating vehicles while the driver's ability or alertness is so impaired, or so likely to become impaired, through fatigue, illness, or any other cause, as to make it unsafe for him/her to begin or continue to operate the commercial motor vehicle. [49 C.F.R. § 392.3 \(2001\)](#). A motor carrier is required to ensure that drivers do not operate unless they are in compliance with the DOT regulations. [49 C.F.R. §§ 391.11, 392.3, 392.4\(b\)\(2001\)](#). [Go To Headnote](#)

[Tate v. Farmland Indus., Inc., 268 F.3d 989, 2001 U.S. App. LEXIS 21701](#) (10th Cir Oct. 10, 2001).

Overview: *Dismissal of employee's FMLA action with prejudice was reversed and remanded, since it could have been inferred from his complaint that he met the 1,250-hour time requirement, and he had a serious medical condition.*

- Department of Transportation regulations mandate that an employer not require or permit a person to drive a commercial motor vehicle unless that person is qualified to drive a commercial motor vehicle. [49 C.F.R. § 391.11\(a\)](#). [Go To Headnote](#)

[Thoms v. Abf Freight Sys., Inc., 31 F. Supp. 2d 1119, 1998 U.S. Dist. LEXIS 20939](#) (ED Wis June 30, 1998).

Overview: *An employee's complaint for disability discrimination was properly dismissed on summary judgment. The employer had a clear defense in terminating the employee for failing to meet medical standards applicable to drivers for interstate motor carriers.*

- The consequences of a failure to qualify under the federal motor carrier safety regulations remain absolute. A person shall not drive a motor vehicle unless he is qualified to drive a motor vehicle, and a motor carrier shall not require or permit a person to drive a motor vehicle unless that person is qualified. [49 C.F.R. § 391.11\(a\) \(1994\)](#). In the case of vision, hearing, insulin-using diabetics, and epilepsy, the current standards are absolute, providing no discretion to the medical examiner. [Go To Headnote](#)

[Yellow Freight System, Inc. v. Amestoy, 736 F. Supp. 44, 1990 U.S. Dist. LEXIS 4945](#) (D Vt Apr. 25, 1990).

Overview: *The Vermont Drug Testing Act stood as an obstacle to accomplishment of federal legislative aims as expressed in federal motor carrier safety regulations permitting drug testing of drivers for interstate carriers and was preempted by federal law.*

- The Federal Highway Administration (FHWA) has promulgated a set of federal motor carrier safety regulations (the FMCSRs). The FMCSRs require drivers for interstate carriers to undergo a medical examination at least every two years so that they may be certified as physically qualified to operate a motor vehicle. [49 C.F.R. § 391.45\(b\)](#). If, at any time, a driver is no longer qualified to operate a motor vehicle, he is not permitted to continue driving. [49 C.F.R. § 391.11\(a\)](#). The FMCSRs direct, inter alia, that a driver is not physically qualified to operate a motor vehicle if he uses specified drugs. [49 C.F.R. § 391.41\(b\)\(12\)](#). [Go To Headnote](#)
- By the express terms of federal motor carrier safety regulations, a driver who uses drugs is not physically qualified to drive, and thus is not permitted to drive a commercial motor vehicle. Both employer and employee have an affirmative duty to ensure that only qualified drivers operate commercial motor vehicles: A person shall not drive a motor vehicle unless he is qualified to drive a motor vehicle. A motor carrier shall not require or permit a person to drive a motor vehicle unless that person is qualified to drive a motor vehicle. [49 C.F.R. § 391.11\(a\)](#). [Go To Headnote](#)

[United States v. Abreu](#), 730 F. Supp. 1018, 1990 U.S. Dist. LEXIS 1350 (D Colo Feb. 6, 1990).

Overview: *A trial court declined to adopt the joint venture theory of standing to contest the validity of a search and seizure because the joint venture theory did nothing more than confer standing on the mere basis of status as a criminal conspirator.*

- Pursuant to Colo. Rev. Stat. § 42-4-234(3), Colorado adopted the safety and hazardous materials regulations in effect in 1987 of the United States Department of Transportation's Hazardous Materials and Motor Carrier Safety Regulations set forth in 49 C.F.R. pts. 100-399. Similar objectives are stated at 49 U.S.C.S. app. §§ 2501, 2502, and [49 C.F.R. §§ 177.800](#), 350.7. The regulations inform interstate carriers and operators that inspections will be made at fixed weigh and check stations. The regulations include the requirements that drivers must be 21 years old, have a currently valid commercial motor vehicle operator's license, and a medical examiner's certificate that he is physically qualified to drive. [49 C.F.R. §§ 391.11\(a\)](#), (b), 391.41(a). The North American Uniform Out-of-Service Criteria dated February 15, 1989, provide that when a driver is not at least 21 years old or is not licensed to operate the class and type of vehicle being operated, the enforcement officer is to remove the driver and preclude further operation of the vehicle. [Go To Headnote](#)

Transportation Law : Foreign Commerce

[International Bhd. of Teamsters v. Pena](#), 17 F.3d 1478, 1994 U.S. App. LEXIS 4524 (DC Cir Mar. 15, 1994).

Overview: *A Federal Highway Administration rule allowing mutual recognition of commercial drivers' licenses between the United States and Mexico was not invalid because its licensing criteria were not more lax than those used for drivers in the United States.*

- In the United States, federal regulations stipulate that people who drive commercial motor vehicles in interstate or foreign commerce must be at least 21 years old, [49 C.F.R. § 391.11\(b\)\(1\)](#); be able to read and speak English, [49 C.F.R. § 391.11\(b\)\(2\)](#); and (with certain exceptions) adhere to limits on hours of service, [49 C.F.R. § 395](#). [Go To](#)

[Headnote](#)

Research References & Practice Aids

NOTES APPLICABLE TO ENTIRE CHAPTER:

[PUBLISHER'S NOTE: For interpretive guidance material for the Federal Motor Carrier Safety Regulations (FMCSRs), see [62 FR 16370](#), Apr. 4, 1997; [75 FR 4305](#), Jan. 27, 2010.]

[PUBLISHER'S NOTE: For Federal Register citations concerning Chapter III Notification of statutory exemptions, see: [77 FR 59840](#), Oct. 1, 2012.]

NOTES APPLICABLE TO ENTIRE PART:

[PUBLISHER'S NOTE: Nomenclature changes to part 391 appear at [66 FR 49867, 49874](#), Oct. 1, 2001.]

[PUBLISHER'S NOTE: For Federal Register citations concerning Part 391 Notice of regulatory guidance, see: [79 FR 59139](#), Oct. 1, 2014; [80 FR 79273](#), Dec. 21, 2015.]

[PUBLISHER'S NOTE: For Federal Register citations concerning Part 391 Notice of decision on use of Medical Examination Report and Medical Examiner's Certificate Forms, see: [81 FR 74700](#), Oct. 27, 2016.]

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