

General Questions about Commercial Driving

1. Can I drive a commercial motor vehicle if I use insulin?

Yes, if you meet certain safety and medical requirements. For many decades, individuals who used insulin were barred from driving commercial motor vehicles in interstate commerce. Young people with type 1 diabetes could not consider a commercial driving career, and drivers with decades of exemplary and safe service were out of jobs once they began to take insulin to manage their type 2 diabetes. While some states offered (and continue to offer) waivers to allow people who use insulin to drive only within the state, many others followed the federal ban even for intrastate driving.

Fortunately, drivers who use insulin and who can meet certain requirements can now drive in interstate commerce. The Federal Diabetes Exemption Program, administered by the Department of Transportation's (DOT) Federal Motor Carrier Safety Administration (FMCSA), has eliminated this unjust blanket ban.

2. What is a DOT Medical Certificate?

All individuals who drive a commercial vehicle in interstate commerce must obtain a federal DOT medical certificate every two years demonstrating that they meet certain qualifications. This certificate is also referred to as a "DOT card". States also issue DOT cards for commercial vehicles operating within their borders. General information for all drivers can be found here: www.fmcsa.dot.gov/rules-regulations/topics/medical/aboutdotexam.htm. Individuals who treat their diabetes with insulin cannot immediately obtain a certificate, but must instead obtain a renewable Federal Diabetes Exemption, www.fmcsa.dot.gov/documents/safetyprograms/Diabetes/diabetes-exemption-package.pdf, in conjunction with their certificate.

3. How do I know if I need to get a DOT Medical Certificate and Federal Diabetes Exemption?

You should determine the following:

1. Is the kind of vehicle I need to drive regulated by the FMCSA?
2. Will I be driving it in interstate commerce?
3. Is there an exemption that applies to the type of driving I am doing?

Unless you do in fact drive a commercial motor vehicle in interstate commerce, these federal requirements do not apply to you, although you still must comply with state law, which may mean obtaining a state medical waiver to drive an intrastate commercial vehicle.

4. What kinds of drivers are subject to FMCSA medical requirements?

Drivers of the following commercial motor vehicles (CMVs) need to meet FMCSA medical requirements:

- A motor vehicle with a gross vehicle weight rating (GVWR), gross combination weight rating (GCWR), gross vehicle weight (GVW) or gross combination weight (GCW) of 4,536 kg (10,001 pounds) or more in interstate commerce.
- A motor vehicle designed or used to transport more than 15 passengers (including the driver) in interstate commerce.
- A motor vehicle designed or used to transport between 9 and 15 passengers, for direct compensation, in interstate commerce.

- A motor vehicle used to transport hazardous materials, in a quantity requiring placards, in interstate commerce.

(49 C.F.R. 390.5) See link below:

<http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrruletext.aspx?section=390.5>

5. What is the difference between interstate and intrastate commerce?

At first glance, it seems like the difference between interstate and intrastate is just whether or not you cross state lines. However, the definition is more complex. The basic issue is whether you transport goods or passengers which have crossed state lines – even if you are not the one transporting the goods or passengers across state lines. For example, if you drive a commercial truck to deliver merchandise only within your city and you never leave the state, but the merchandise arrived from another state, this is interstate commerce. In reality, there is very little intrastate commercial driving.

6. What types of drivers may be exempt?

Drivers of certain types of vehicles are exempted from the Federal Motor Carrier Safety Regulations (FMCSRs). If you drive a commercial motor vehicle for certain purposes other than interstate commerce, you may be exempt. For example, drivers of farm vehicles, school bus drivers, drivers of federal, state, and local government vehicles, hearse drivers, and fire truck and ambulance drivers may not be subject to these regulations. It is important to be familiar with the specific regulations to determine if you are exempt, and to ensure that you meet any licensing requirements for your state. (49 C.F.R. § 383.3) (49 C.F.R. § 390.3).

See links below:

<http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrruletext.aspx?reg=383.3>

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7. Do drivers of other types of vehicles have special rules?

In some cases, there are special rules for obtaining passenger, hazardous material, school bus, taxi, and other endorsements if you use insulin. For more information, contact your state department of motor vehicles.

8. Can I get a diabetes exemption just for intrastate driving?

Many states have special exemption or waiver programs for individuals with diabetes which permit them to drive only in intrastate commerce. For more information, contact your state department of motor vehicles.

9. I have type 2 diabetes and hold a CDL. Do these rules apply to me?

If you have type 2 diabetes and do not use insulin, you do not need to apply for a diabetes exemption, although you still must obtain a DOT Medical Certificate if you drive in interstate commerce. You also must meet all other licensing and safety requirements as dictated by the state agency that issues your CDL. If you use insulin to treat your type 2 diabetes, or if you are switching to insulin, you need to have an approved diabetes exemption in order to operate a commercial vehicle in interstate commerce.

10. I don't think the FMCSA regulations apply to me. Can my employer still force me to pass a DOT physical even though the regulations don't apply to me?

It is illegal for your employer to force you to comply with regulations that do not apply to you, for example because your job does not involve interstate commercial driving. If your employer takes adverse action against you, such as reducing your hours, requiring you to obtain a DOT card, or terminating you, you may have a claim of employment discrimination under the Americans with Disabilities Act (ADA). If your employer does this, you can consider making a complaint with the Equal Employment Opportunity Commission (EEOC), www.eeoc.gov, the federal agency that enforces the ADA. For example, the EEOC

recently settled with Kalil Bottling Company, www.eeoc.gov/eeoc/newsroom/release/3-12-10.cfm, which fired a driver who made deliveries using a pick-up truck (a non-commercial vehicle) and did not have a DOT Medical Certificate due to his insulin use.

If you think that you do not need a DOT Medical Certificate to do your job but your employer is demanding one, please call us at 1-800-DIABETES to find out how you can speak with a legal advocate.

11. Can I drive a school bus if I use insulin?

The FMCSA does not regulate school buses that are used solely to transport students from home to school within state lines. (49 C.F.R. § 390.3(f)(1)). See the following link: <http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrruletext.aspx?reg=390.3>. However, many states have restrictions on who may drive school buses. Contact your state department of motor vehicles and/or department of education. If your state bans all drivers with diabetes or who use insulin from being school bus drivers, it may be violating the ADA.

12. How do I apply for a Federal Diabetes Exemption?

Individuals wishing to apply for a diabetes exemption should download a copy of the instructions and application for the Diabetes Exemption Program, www.fmcsa.dot.gov/documents/safetyprograms/Diabetes/diabetes-exemption-package.pdf. The application requires that you be evaluated by an endocrinologist and an ophthalmologist or optometrist, and that these doctors provide certain information about your diabetes. You or your doctor may also need to provide other information as requested by the agency. You may want to review the criteria for the exemption before applying. You can see a chart on safety and medical screening criteria at: www.diabetes.org/assets/pdfs/know-your-rights/employment/commercial-drivers-and-diabetes-discrimination/chartofsafetymedicalscreeningsoct2007.pdf.

13. How long does it take to get a federal exemption?

By law, FMCSA must either grant or deny an exemption within 180 days of receiving an application. However, it sometimes takes longer than 180 days if an application is incomplete or the agency requests additional information. Once the agency has made a tentative decision about your application, it will publish a notice in the Federal Register giving the public 30 days to comment on your application, and then issue a final determination. You will receive written notice of the agency's decision. If you are granted an exemption, you will receive written information from the FMCSA about the requirements during the two-year exemption period.

14. Can I drive a commercial vehicle when I'm waiting for my Federal Diabetes Exemption to go through?

You cannot drive in interstate commerce until your exemption is approved. However, you may be able to drive in other capacities, such as intrastate commerce or for a government agency if you are appropriately licensed to do so by your state. Your employer may also need to provide you with the reasonable accommodation of transferring you to an open position that does not require interstate driving until you obtain your exemption.

15. What can I do if I think I am not being treated fairly or I need more information on the Diabetes Exemption Program?

Please call 1-800-DIABETES (1-800-342-2383) for additional information and to learn how you can speak with one of the Association's Legal Advocates.

Important Note: This document describing the legal rights of individuals with diabetes is for your general information and review only, and is not to be construed as a substitute for the advice of legal counsel.