

**ISSUE NUMBER**

22-026-DRV

**ISSUE NAME**

OOSC, Part I, Item 3. b. Commercial Learner's Permit (1)

**STATUS**

Closed

Driver-Traffic Enforcement Committee

**NAME**

Eric Sundby

**AGENCY**

Minnesota State Patrol

**ADDRESS**

1110 Centre Pointe Curve, Suite 410  
Mendota Heights, Minnesota 55120  
United States

**PHONE**

12183960866

**EMAIL**[eric.sundby@state.mn.us](mailto:eric.sundby@state.mn.us)**SUMMARY OF ISSUE**

When a valid CDL driver is required to be on duty with a CLP driver, but has been flagged in the Drug and Alcohol Clearinghouse.

**JUSTIFICATION OR NEED**

The valid CDL driver is prohibited from performing safety-sensitive functions, this would include all time other than driving time, in or upon a CMV.

**REQUEST FOR ACTION**

Under 3 CDL (b) CLP (1) add in addition to accompanied by a valid holder of a CDL, who is not on the prohibition list under the clearinghouse for Drug and Alcohol. Declare CLP driver OOS.

**ACTION TAKEN BY COMMITTEE**

383.25 states that a CLP holder must be accompanied by the holder of a valid CDL. The committee requested CVSA staff to submit a petition to FMCSA to define what it means to have a "valid CDL holder" accompany a CLP holder. There have been instances of the CDL holder's license indicating "licensed" when viewed in CDLIS or NLETS, however, the driver is prohibited from performing safety sensitive functions in the DACH. FMCSA stated the intent is that the CDL holder must be fully qualified when accompanying the CLP holder, however, 383.25 does not state that. In February 2023, CVSA submitted a petition to FMCSA requesting them to specify that the CDL holder must be fully qualified in addition to holding a valid CDL.

FMCSA provided a response to the petition and the committee voted to update the OOSC to require the CDL holder to be fully authorized and qualified to operate the CMV. This was done to reflect the regulatory change from FMCSA for consistency.

OOSC 3.b.(1)

Is not accompanied by the holder of a valid CDL that is authorized to operate the CMV for that trip. (383.25(a)(1))  
Declare driver out of service.