

## 49 CFR § 383.51 - DISQUALIFICATION OF DRIVERS.

### § 383.51 Disqualification of drivers.

#### (a) *General.*

(1) A person required to have a CLP or CDL who is disqualified must not drive a CMV.

(2) An employer must not knowingly allow, require, permit, or authorize a driver who is disqualified to drive a CMV.

(3) A holder of a CLP or CDL is subject to disqualification sanctions designated in paragraphs (b) and (c) of this section, if the holder drives a CMV or non-CMV and is convicted of the violations listed in those paragraphs.

(4) *Determining first and subsequent violations.* For purposes of determining first and subsequent violations of the offenses specified in this subpart, each conviction for any offense listed in Tables 1 through 4 to this section resulting from a separate incident, whether committed in a CMV or non-CMV, must be counted.

(5) The disqualification period must be in addition to any other previous periods of disqualification.

(6) *Reinstatement after lifetime disqualification.* A State may reinstate any driver disqualified for life for offenses described in paragraphs (b)(1) through (8) of this section (Table 1 to § 383.51) after 10 years, if that person has voluntarily entered and successfully completed an appropriate rehabilitation program approved by the State. Any person who has been reinstated in accordance with this provision and who is subsequently convicted of a disqualifying offense described in paragraphs (b)(1) through (8) of this section (Table 1 to § 383.51) must not be reinstated.

(7) A foreign commercial driver is subject to disqualification under this subpart.

(b) *Disqualification for major offenses.* Table 1 to § 383.51 contains a list of the offenses and periods for which a person who is required to have a CLP or CDL is disqualified, depending upon the type of vehicle the driver is operating at the time of the violation, as follows:

**TABLE 1 TO [§ 383.51](#)**

<p>If a driver operates a motor vehicle and is convicted of:</p>	<p>For a first conviction or refusal to be tested while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *</p>	<p>For a first conviction or refusal to be tested while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV for * * *</p>	<p>For a first conviction or refusal to be tested while operating a CMV transporting hazardous materials as defined in <a href="#">§ 383.5</a>, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *</p>	<p>For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *</p>	<p>For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV for * * *</p>
<p>(10) Using a CMV in the commission of a felony involving an act or practice of severe forms of trafficking in persons, as defined and described in <a href="#">22 U.S.C. 7102(11)</a></p>	<p>Life - not eligible for 10-year reinstatement</p>	<p>Not applicable</p>	<p>Life - not eligible for 10-year reinstatement</p>	<p>Life - not eligible for 10-year reinstatement</p>	<p>Not applicable.</p>

**22 U.S. CODE § 7102 – DEFINITIONS**

In this chapter:

- (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.

## ARTICLE 7 - HUMAN TRAFFICKING

### 6-2-701. Definitions.

(a) As used in this article:

(i) "Benefit" means anything of value;

(ii) "Coercion" means any one (1) or more of the following:

(A) The use or threat of force, abduction, serious harm to or physical restraint against any individual;

(B) The use of a scheme, plan, pattern or fraudulent statement with intent to cause an individual to believe that failure to perform an act will result in serious harm to or physical restraint against any individual;

(C) The abuse or threatened abuse of the law or legal process;

(D) The abuse of a position of power or taking advantage of a position of vulnerability;

(E) Providing a controlled substance to an individual for the purpose of controlling the person's behavior;

(F) Interfering with lawful custody of or access to an individual's children;

(G) The destruction of, taking of or the threat to destroy or take an individual's identification document;

(H) The use of an individual's personal services as security payment or satisfaction for a real or purported debt if:

(I) The reasonable value of the services is not applied toward the liquidation of the debt;

(II) The length of the services is not limited and their nature is not defined;

(III) The principal amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred; or

(IV) The individual is prevented from acquiring accurate and timely information about the disposition of the debt.

(iii) "Commercial sex act" means any sexual act for which anything of value is given to, promised or received by a person in exchange for the sexual act;

(iv) "Deception" means:

(A) A person's creation or confirmation of an individual's impression of material fact or event which is false and which the person knows or has reason to believe is false, including:

(I) The nature of labor or services to be provided;

(II) The fundamental conditions of labor; or

(III) The extent to which the individual will be free to leave the individual's place of residence or workplace; and

(B) The promise of a benefit to or performance of a service to an individual which the person does not intend to be delivered or performed.

(v) "Financial harm" means a detrimental position in relation to wealth, property or other monetary benefits that occurs as a result of another person's illegal act including, but not limited to, blackmail, promoting of prostitution or illegal employment contracts;

(vi) "Forced services" means services performed or provided by a person that are obtained or maintained by another person who:

(A) Causes or threatens to cause serious harm to any person;

(B) Physically restrains or threatens to physically restrain another person;

(C) Abuses or threatens to abuse the law or legal process;

(D) Knowingly destroys, conceals, removes or confiscates any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person;

(E) Engages in blackmail; or

(F) Causes or threatens to cause financial harm to any person.

(vii) "Identification document" includes a passport, driver's license, immigration document, travel document and any other government issued identification document;

(viii) "Labor" means work of economic or financial value;

(ix) "Minor" means any natural person younger than eighteen (18) years of age;

(x) "Pecuniary damage" means all damages which a victim could recover against the defendant in a civil action arising out of the same facts or event, including damages for wrongful death. It does not include punitive damages and damages for pain, suffering, mental anguish and loss of consortium;

(xi) "Person" means an individual, partnership, corporation, joint stock company or any other association or entity, public or private;

(xii) "Restitution" means full or partial payment of pecuniary damage to a victim;

(xiii) "Serious harm" means physical or nonphysical harm or property damage, including, but not limited to, bodily injury as defined in W.S. 6-1-104(a)(i), economic loss as defined in W.S. 1-40-102(a)(v), personal injury as defined in W.S. 1-40-102(a)(vii) or reputational harm sufficient to compel a reasonable person of the same background and in the same circumstance of the victim, to perform or to continue performing labor, a service or a commercial sex act in order to avoid incurring that harm;

(xiv) "Services" means activities resulting from a relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor. Commercial sexual activity is "services" in this article. Nothing in this definition may be construed to legitimize or legalize prostitution;

(xv) "Victim" means the person alleged to have been subjected to human trafficking;

(xvi) "This act" means W.S. 6-2-701 through 6-2-710.

### **6-2-702. Human trafficking in the first degree; penalty.**

(a) A person is guilty of human trafficking in the first degree when the person intentionally or knowingly recruits, transports, transfers, harbors, receives, provides, obtains, isolates, maintains or entices an individual for the purpose of:

(i) Forced labor or servitude in violation of W.S. 6-2-704;

(ii) Sexual servitude in violation of W.S. 6-2-705; or

(iii) Sexual servitude of a minor in violation of W.S. 6-2-706.

(b) Except as provided in W.S. 6-2-712(a), human trafficking in the first degree is a felony punishable by imprisonment for not less than five (5) nor more than fifty (50) years unless the victim is a minor in which case it is a felony punishable by imprisonment for not less than twenty-five (25) nor more than fifty (50) years and a fine of not more than ten thousand dollars (\$10,000.00), or both.

**6-2-703. Human trafficking in the second degree; penalty.**

(a) A person is guilty of human trafficking in the second degree when the person recklessly recruits, transports, transfers, harbors, receives, provides, obtains, isolates, maintains or entices an individual for the purpose of:

- (i) Forced labor or servitude in violation of W.S. 6-2-704;
- (ii) Sexual servitude in violation of W.S. 6-2-705;
- (iii) Sexual servitude of a minor in violation of W.S. 6-2-706.

(b) Except as provided in W.S. 6-2-712(a), human trafficking in the second degree is a felony punishable by imprisonment for not less than two (2) nor more than twenty (20) years and a fine of not more than ten thousand dollars (\$10,000.00), or both.

**6-2-704. Forced labor or servitude; penalty.**

(a) A person is guilty of forced labor or servitude when the person intentionally, knowingly or recklessly uses coercion, deception or fraud to compel an individual to provide forced services.

(b) Intentionally, knowingly or recklessly compelling forced labor or servitude is a felony punishable by imprisonment for not more than fifteen (15) years and a fine of not more than ten thousand dollars (\$10,000.00), or both.

**6-2-705. Sexual servitude of adult.**

(a) A person is guilty of sexual servitude of an adult when the person intentionally, knowingly or recklessly uses coercion, deception or fraud to compel an individual eighteen (18) years of age or older to engage in commercial sexual services.

(b) Intentionally, knowingly or recklessly compelling the sexual servitude of an adult is a felony punishable by imprisonment for not more than three (3) years and a fine of not more than three thousand dollars (\$3,000.00), or both.

**6-2-706. Sexual servitude of a minor.**

(a) A person is guilty of sexual servitude of a minor when the person intentionally, knowingly or recklessly offers, obtains, procures or provides an individual less than eighteen (18) years of age to engage in commercial sexual services.

(b) Intentionally, knowingly or recklessly compelling the sexual servitude of a minor is a felony punishable by imprisonment for not more than five (5) years and a fine of not more than five thousand dollars (\$5,000.00), or both.

(c) It is not a defense in a prosecution under this section that the individual consented to engage in commercial sexual services or that the defendant reasonably believed the individual was at least eighteen (18) years of age.

**6-2-707. Patronizing a victim of sexual servitude.**

(a) A person is guilty of patronizing a victim of sexual servitude when the person pays, agrees to pay or offers to pay anything of value so that the person or another may engage in sexual activity with an individual when the person knows that the individual is a victim of sexual servitude in violation of W.S. 6-2-705 or 6-2-706.

(b) Patronizing a victim of sexual servitude is a felony punishable by a fine of not more than five thousand dollars (\$5,000.00), imprisonment for not more than three (3) years, or both.

**6-2-708. Victim defenses; vacating convictions.**

(a) A victim of human trafficking is not criminally liable for any commercial sex act or other criminal acts committed as a direct result of, or incident to, being a victim of human trafficking in violation of W.S. 6-2-702 through 6-2-707.

(b) A victim of human trafficking who is a minor shall be deemed a child in need of supervision in accordance with the Children in Need of Supervision Act or a neglected child in accordance with the Child Protection Act.

(c) At any time after the entry of a conviction, the court in which it was entered may vacate the conviction if the defendant's participation in the offense is found to have been the result of having been a victim. Official documentation of the defendant's status as a victim at the time of the offense from a federal, state or local government agency shall create a presumption that the defendant's participation in the offense was a result of having been a victim, but shall not be required for granting a motion under this section.

**6-2-709. Victims' rights; services.**

(a) As soon as possible after the initial encounter with a person who reasonably appears to a law enforcement agency, district or county and prosecuting attorneys' office to be a victim of human trafficking, the agency or office shall:

(i) Notify the victim services division within the office of the attorney general that the person may be eligible for services under this article; and

(ii) Make a preliminary assessment of whether the victim or possible victim of human trafficking appears to meet the criteria for certification as a victim of a severe form of trafficking in persons as defined in the Trafficking Victims Protection Act, 22 U.S.C. section 7105, or appears to be otherwise eligible for any federal, state or local benefits and services. If it is determined that the victim appears to meet such criteria, the agency or office shall report the finding to the victim and shall refer the victim to services available, including legal service

providers. If the possible victim is a minor or is a vulnerable adult, the agency or office shall also notify the department of family services.

(b) The attorney general, a district or county and prosecuting attorney or any law enforcement official shall certify in writing to the United States Department of Justice or other federal agency, such as the United States Department of Homeland Security, that an investigation or prosecution under this article has begun and the individual who is a likely victim of a crime described in this article is willing to cooperate or is cooperating with the investigation to enable the individual, if eligible under federal law, to qualify for an appropriate special immigrant visa and to access available federal benefits. Cooperation with law enforcement shall not be required of victims of a crime described in this article who are minors. This certification shall be made available to the victim and the victim's designated legal representative.

(c) Victims of human trafficking under W.S. 6-2-702 through 6-2-706 shall be informed of the rights enumerated in this section, the victim's right to informed consent and the victim's rights as a victim of crime. The victim shall also be informed of available housing, educational, medical, legal and advocacy services.

(d) Victims of human trafficking are entitled to restitution and forms of compensation under the Crime Victims Compensation Act.

(e) In a prosecution for an offense under this article, police and prosecuting agencies shall keep the identity of the victim and the victim's family confidential. The prosecutor shall take reasonable steps to protect the victim and the victim's family from being revictimized.

#### **6-2-710. Restitution.**

(a) In addition to any other punishment prescribed by law, upon conviction for felony under this article, the court shall order a defendant to pay mandatory restitution to each victim as determined under W.S. 7-9-103 and 7-9-114.

(b) If the victim of human trafficking to whom restitution has been ordered dies before restitution is paid, any restitution ordered shall be paid to the victim's heir or legal representative provided that the heir or legal representative has not benefited in any way from the trafficking.

(c) The return of the victim of human trafficking to the victim's home country or other absence of the victim from the jurisdiction shall not limit the victim's right to receive restitution pursuant to this section.

#### **6-2-711. Asset forfeiture.**

(a) The following are subject to forfeiture as permitted pursuant to subsections (c) through (j) of this section:

(i) All assets subject to the jurisdiction of the court:



(A) Used by a person while engaged in perpetrating a violation of this article;

(B) Affording a person a source of influence over a trafficked individual in violation of this article;

(C) Acquired or maintained by a person with the intent to, and for the purpose of supporting, conducting or concealing an act which violates this article; or

(D) Derived from, involved in or used or intended to be used to commit an act which violates this article.

(ii) All books, records, products and materials which are used or intended for use in violation of this article;

(iii) All conveyances including aircraft, vehicles or vessels, knowingly used or intended for use to transport victims or in any manner to knowingly facilitate transportation of victims for human trafficking in violation of this article are subject to forfeiture, provided:

(A) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless the owner or corporate officer is a consenting party or privy to a violation of this article;

(B) No conveyance is subject to forfeiture under this section by reason of any act committed without the knowledge or consent of the owner;

(C) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest if the secured party neither had knowledge of nor consented to the act.

(iv) All buildings knowingly used or intended for use to further human trafficking in violation of this article if the owner has knowledge of or gives consent to the act of violation. A forfeiture of property encumbered by a bona fide security interest is subject to the interest if the secured party neither had knowledge of nor consented to the act;

(v) Any property or other thing of pecuniary value furnished in exchange for human trafficking in violation of this article including any proceeds, assets or other property of any kind traceable to the exchange and any money, securities or other negotiable instruments used to facilitate a violation of this article. Property used or furnished without the consent or knowledge of the owner is not forfeitable under this paragraph to the extent of the owner's interest;

(vi) Overseas assets of persons convicted of human trafficking under this article to the extent they can be retrieved by the state.

(b) Property subject to forfeiture under this article may be seized by any law enforcement officer of the state upon process issued by any district or circuit court having jurisdiction over the property. Seizure without process may be made if:

(i) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant; or

(ii) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal, injunction or forfeiture proceeding based upon this article.

(c) Any person convicted of a violation of this article which is punishable by imprisonment for more than one (1) year shall be subject to forfeiture of property listed under subsection (a) of this section. The procedure for forfeiture shall be as provided in subsections (d) through (j) of this section.

(d) If the state seeks forfeiture of property:

(i) The indictment or information shall contain notice to the defendant that the state seeks forfeiture and shall specifically identify the property sought to be forfeited;

(ii) All property shall be returned to the legal owner or person from whom it was seized unless there is a finding or verdict of guilt, an admission of guilt or a plea of nolo contendere to a felony under this act;

(iii) After a finding or verdict of guilt, an admission of guilt or a plea of nolo contendere to a felony under this act is accepted, the court shall conduct a forfeiture hearing to determine if the property is subject to forfeiture under this section. If the court finds under a preponderance of evidence standard that property is subject to forfeiture, the court shall enter a preliminary order directing the forfeiture;

(iv) The court may include in the preliminary order of forfeiture additional conditions reasonably necessary to preserve the property's value pending any appeal.

(e) If the court makes a preliminary order of forfeiture of property, legal interests of persons other than a party to the criminal action shall be determined, subject to the following:

(i) Following an entry of a preliminary order of forfeiture, the state shall publish notice of the order in a newspaper of general circulation in the state once a week for two (2) weeks and shall provide written notice by first class mail to the last known address of any person who, after reasonable inquiry, appears to be a potential owner or lien holder in the property. The notice shall describe the forfeited property and shall advise that parties with a potential interest in the property may contest the forfeiture by filing a petition with the court not later than sixty (60) days after the date of the second published notice or, if notice is mailed under this paragraph, not later than thirty (30) days after mailing written notice;

(ii) If a third party files a timely response asserting an interest in property subject to a preliminary order of forfeiture, the court shall conduct a hearing. The court may permit the parties to conduct discovery in accordance with the Wyoming Rules of Civil Procedure if the court determines that discovery is necessary or desirable to resolve factual issues. After the hearing, the court shall enter a final order of forfeiture by amending the preliminary order as necessary to account for any third party rights. If no third party files a timely petition, the preliminary order shall become the final order upon expiration of the time for filing a petition;

(iii) If a defendant appeals from a conviction or a preliminary or final order of forfeiture, the court may stay the preliminary or final order of forfeiture on terms appropriate to ensure that the property remains available pending appellate review. A stay shall not delay a hearing or a determination of a third party's rights or interests. If the court rules in favor of any third party while an appeal is pending, the court may amend the order of forfeiture but shall not transfer any property interest to a third party until the decision on appeal becomes final, unless the defendant consents in writing or on the record.

(f) An interest in property belonging to a third party shall not be forfeited to the extent that the third party establishes it has a perfected lien in the property or proves by a preponderance of evidence that he has a perfected security interest in the property or proves he is an innocent owner. For purposes of this subsection:

(i) With respect to a property interest in existence at the time the violation of this article took place, "innocent owner" means a person who held an interest in the property who neither had knowledge of nor consented to the violation;

(ii) With respect to a property interest acquired after the violation of this article has taken place, the term "innocent owner" means a person who, at the time that person acquired the interest in the property:

(A) Was a bona fide purchaser or seller for value or a holder of a bona fide security interest in the property; and

(B) Did not know and was reasonably without cause to believe the property was used in connection with a violation of this article.

(g) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of and subject only to the orders and decrees of the court having jurisdiction over the proceedings. When property is seized under this section, the court shall place the property under seal or otherwise assure the property is maintained under conditions reasonably necessary to preserve the property's value or may sell the property for value and hold the proceeds thereof until the forfeiture proceedings have become final as to all parties and all rights of appeal have been exhausted.

(h) A person's interest in property is not subject to forfeiture to the extent that the forfeiture is grossly disproportionate to the gravity of the offense giving rise to the forfeiture. The state shall have the burden of demonstrating by a preponderance of the evidence that a

forfeiture is not grossly disproportionate. Proportionality shall be decided by the court as follows:

(i) In determining whether a forfeiture is grossly disproportionate, the court shall consider:

(A) The extent to which the property was used or intended to be used in executing the underlying offense;

(B) The value of the property, including both its fair market and subjective value;

(C) The actions of the person involved in the activity giving rise to the forfeiture proceedings;

(D) The severity of the criminal sanctions associated with the actions of the person;

(E) Whether the property constitutes the person's lawful livelihood or means of earning a living;

(F) Whether the offense or attempted offense has severe collateral consequences; and

(G) Any other factors the court deems necessary and relevant.

(ii) If the court finds the forfeiture is grossly disproportionate to the offense, it shall reduce or eliminate the forfeiture as it finds appropriate.

(j) Within six (6) months after a final order of forfeiture is affirmed on appeal or the deadline to appeal passes without a notice of appeal being filed, the state shall, by public sale or auction, liquidate forfeited tangible property and distribute the total proceeds of the forfeiture as follows:

(i) Costs of forfeiture proceedings and the sale of forfeited property incurred by the state;

(ii) Costs of storing and maintaining the forfeited property incurred by the court;

(iii) The amount necessary to pay court ordered restitution shall be applied to pay that restitution;

(iv) Civil judgments entered against the forfeiting defendant in favor of that defendant's victim, already existing at the time proceeds are received, to the extent that such judgments cannot be satisfied out of the forfeiting defendant's assets;

(v) If a remainder exists, to the public school fund of the respective counties as provided by article 7, section 5 of the Wyoming constitution.

**6-2-712. Penalties for subsequent human trafficking convictions.**

(a) A person who is convicted of human trafficking under W.S. 6-2-702 or 6-2-703 shall be punished by imprisonment for not less than twenty-five (25) years or for life imprisonment without parole if:

(i) The victim in the instant case was a minor;

(ii) The person has one (1) or more previous convictions for a violation of W.S. 6-2-702, 6-2-703 or a criminal statute containing the same or similar elements as the crimes defined by W.S. 6-2-702 or 6-2-703 where the victim was a minor and which arose out of separate occurrences in this state or elsewhere; and

(iii) The convictions were for offenses committed after the person reached eighteen (18) years of age.