



Continuous Driver Monitoring and Compliance with the FMCSA's annual MVR requirement

July 8, 2024

Companies that operate “commercial motor vehicles” (CMVs) in interstate or intrastate commerce and are subject to the Federal Motor Carrier Safety Regulations (FMCSRs) or a particular state’s adoption of those regulations are generally obligated to ensure their drivers are fully qualified to do so. This includes, among other things, running checks at least annually of each driver’s motor vehicle record (“MVR”) to confirm that the driver has a valid and appropriate license and has not incurred any moving violations or been involved in any accidents that might disqualify him/her from operating under the company’s safety policy or the regulations. See 49 C.F.R. § 391.25. In this paper, we explain how SambaSafety’s continuous driver monitoring helps companies satisfy this requirement.

A. The annual MVR regulation and related agency guidance

Section 391.25 of the FMCSRs provides that “each motor carrier shall, at least once every 12 months, make an inquiry to obtain the motor vehicle record of each driver it employs, covering at least the preceding 12 months” and shall “review the motor vehicle record . . . to determine whether that driver meets minimum requirements for safe driving or is disqualified to drive a commercial motor vehicle pursuant to § 391.15.” As evidence that it has done so, the carrier must ordinarily keep a copy of each MVR in its drivers’ qualification files along with a note indicating the name of the person who performed and the date of the annual MVR reviews.

Over the years, carriers have turned to third-party administrators like SambaSafety to help them comply with this and other obligations under the FMCSRs through innovative new products and services. This innovation—such as continuous driver monitoring—has prompted the Federal Motor Carrier Safety Administration (FMCSA), the agency responsible for promulgating and enforcing the FMCSRs, to issue the following regulatory guidance in question and answer format:

Question 3: May motor carriers use third parties to ask State agencies for copies of driving records to be examined during the carrier’s annual review of each driver’s record?

Guidance: Yes. Although an examination of the official driving record maintained by the State is not required during the annual review, motor carriers that choose to do so may use third-party agents, such as driver information services or companies, to obtain the information. However, the motor carrier is responsible for ensuring the information is accurate.

Question 4: Does the use of an employer notification system that provides motor carriers with a department of motor vehicle report for every State in which the driver held either an operator’s license, a commercial driver’s license (CDL), or permit when a driver is enrolled in the system and provides information about license status, crashes and convictions of laws or regulations governing the operation of motor vehicles on the driving record satisfy the requirement for an annual review of each driver’s record?

Guidance: Yes. Since motor carriers would be provided with a department of motor vehicle report for every State in which the driver held a commercial motor vehicle operator's license or permit when a driver is enrolled in the system and the State licensing agency includes information about crashes and convictions of laws or regulations governing the operation of motor vehicles on the driving record, the requirements of §391.25(a) would be satisfied. Generally, the requirements of §391.25(b) and (c) would be satisfied if the employer notification system records the identity of the motor carrier's representative who conducted the review when the carrier's representative reviews the information on the driving record.

The use of an employer notification system would meet the requirements if either the motor carrier automatically receives updates from the State (push-system) or can regularly access the system to check for updates (pull-system), as long as the check occurs at least once per year. In addition, receipt of these reports meets the requirement for the annual check even if it is provided to the motor carrier by a third-party.

With regard to the requirement that the response from each State agency, and a note identifying the person who performed the review, may be maintained in the driver's qualification files, motor carriers may satisfy the recordkeeping requirement by using computerized records in accordance with FMCSA's Regulatory Guidance Concerning Electronic Documents and Signatures, 75 FR 411, January 4, 2011. Therefore, motor carriers using an automated employer notification computer system would not be required to maintain paper copies of the driving records, or a note identifying the person who performed the review, in each individual driver qualification file provided documentation consistent with FMCSA's January 4, 2011, guidance can be produced upon demand of a Federal or State enforcement official.

FMCSA Guidance to 49 C.F.R. § 391.25, available at fmcsa.dot.gov/regulations/title49/section/391.25.

Exhibit A to this paper includes a list of those states for which the SambaSafety platform meets the requirements of FMCSA Guidance to 49 C.F.R. § 391.25.

B. How SambaSafety's platform satisfies these obligations

SambaSafety's platform helps companies meet their annual MVR review requirement under Section 391.25 by continuously monitoring each enrolled driver's driving record in any state(s) in which he/she is licensed and notifying and allowing company representatives to review any and all interim updates to those records throughout the year.

In particular, the platform meets the minimum requirements set forth in the FMCSA's guidance to Question 4 cited above in that it (1) integrates and interfaces with employer notification systems in states that have them to receive "push" notifications on drivers licensed in those states; and (2) "pulls" down driving-record data at a certain frequency—often daily or weekly, but in all cases at least monthly—on all enrolled drivers who are licensed in states that have not yet implemented their own push notification systems. SambaSafety analyzes these interim updates (whether push or pull) and compares them against the last full MVR obtained for each enrolled driver. Then, if there has been any negative change in the data (e.g., a driver's license is downgraded, the driver has incurred a moving violation, etc.), the system will automatically obtain a full MVR for that driver from the applicable state and replace the existing MVR in the file, thereby ensuring companies have an up-to-date driving history for all enrolled drivers at all times.

By way of example, let's say Company ABC, Inc. enrolls through its SambaSafety account Driver John Doe who is licensed in a state that has implemented a push-style employer notification system and Driver Jane Doe who is licensed in a state that hasn't. Once both drivers are enrolled, the system will pull full MVRs on both drivers from their respective licensing states, which are available to view by company representatives through the SambaSafety software. From that time onward, any push notifications sent to the system by John Doe's licensing state will be compared against his most recent MVR, and if there has been any negative change to the information, the system will obtain a new MVR to replace the existing one in the file. For Jane Doe, the system will manually pull down information from her licensing state at a certain frequency (e.g., weekly), and in situations where the pulled-down information reveals a negative change to her most recent MVR, the system will obtain a new MVR to replace the existing one in the file. In both cases, company representatives will receive notifications through the platform each time the system replaces a driver's MVR due to newly acquired information, and the representatives can then log into the software to view the new MVRs and take any appropriate action.

In every case—again, whether the driver is licensed in a state with a push notification system or not—the SambaSafety software is continuously monitoring each enrolled driver's driving record and obtaining full MVRs any time an interim check reveals any new adverse details. In this sense, the SambaSafety software meets the FMCSA's guidance, which again states that “[t]he use of an employer notification system would meet the requirements if either the motor carrier automatically receives updates from the State (push-system) or can regularly access the system to check for updates (pull-system), as long as the check occurs at least once per year.”

Further, assuming company representatives are routinely reviewing each enrolled driver's MVRs through the SambaSafety software, companies can meet their regulatory recordkeeping obligations since the system maintains electronic copies of each enrolled driver's MVRs and logs each time a company representative closes an alert about new activity on an MVR within the system.

Exhibit A

Monitoring states applicable to FMCSA Guidance to 49 C.F.R. § 391.25

Arkansas
California
Colorado
Delaware
Idaho
Maine
Maryland
Michigan
Minnesota
Missouri
Nebraska
New Mexico

New York
North Carolina
Ohio
Oregon
Rhode Island
South Carolina
Utah
Virginia
Washington
West Virginia
Wisconsin