

following topics: (1) Hours of service; (2) vehicle inspections; (3) drug and alcohol; (4) safety and security; (5) Americans With Disabilities Act (ADA); (6) equipment training; and (7) Smith System Training (defensive driving classroom and operational). Tornado did not provide specific information addressing the content or rigor of the training it provides.

## V. Public Comments

On July 14, 2021, FMCSA published notice of Tornado's application and requested public comments (86 FR 37209). The Agency received comments from the International Brotherhood of Teamsters (Teamsters) and two individuals. All three commenters opposed the exemption request. The Teamsters said that Tornado has not sufficiently demonstrated that the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulations. According to the Teamsters:

Tornado states that the drivers for which they are seeking exemptions from the FMCSRs will have had over two years of experience driving in the U.S. and Mexico. But that experience is not differentiated by country. By their broad statement, it cannot be determined if a driver has more than one-day's experience driving in the U.S., and that most of the time has been spent operating in Mexico.

The Teamsters added:

Tornado offers no specifics like the number of hours of in-classroom training it offers its drivers hired in the U.S., other than stating what subjects it includes in its training. Tornado's application for exemption contains no safety analysis and it states that its operation 'is significantly affected financially' once their drivers obtain permanent residence status due to the time consumption to process their CDL. Financial considerations should never outweigh safety.

In summary, the Teamsters concluded, "these drivers who receive permanent residence status must operate in the U.S. with a U.S. CDL. They no longer can use the Mexican LFC. Therefore, they must take the necessary steps to qualify for the U.S. CDL."

The two individual commenters stated that the Agency should not grant exemptions based on financial considerations and that doing so would result in a weakening of the necessary training that these drivers would otherwise receive.

## VI. FMCSA Safety Analysis and Decision

FMCSA evaluated the Tornado application and the public comments

and is denying the exemption. In order to obtain a CDL an applicant must pass both skills and knowledge tests to demonstrate the proficiency required to safely operate a CMV on a public road. In addition, beginning February 7, 2022, the Agency's entry-level driver training standards apply to individuals applying for a CDL for the first time; an upgrade of their CDL (e.g., a Class B CDL holder seeking a Class A CDL); or a hazardous materials (H), passenger (P), or school bus (S) endorsement for the first time.

Because the applicant did not provide any specific information on either the content or rigor of the training it provides for its drivers hired to operate in the U.S., FMCSA has no basis to conclude that granting the exemption would achieve a level of safety equivalent to, or greater than the level achieved without the exemption.

**Robin Hutcheson,**

*Deputy Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2021-0051]

#### Commercial Driver's License Requirements: Dealers' Choice Truckaway System, Inc. dba Truckmovers; Irontiger Logistics, Inc.; TM Canada, Inc.; Victory Driveaway, Inc., Application for Exemption

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

**ACTION:** Notice of final disposition; denial of application for exemption.

**SUMMARY:** FMCSA announces its decision to deny the exemption request submitted by the following affiliated driveaway motor carriers: Dealers' Choice Truckaway System, Inc. dba Truckmovers; Irontiger Logistics, Inc.; TM Canada, Inc.; and Victory Driveaway, Inc. These driveaway carriers jointly sought an exemption from the requirement that drivers transporting empty passenger vehicles with seating capacities of 16 or more but a gross vehicle weight rating (GVWR) and a gross vehicle weight (GVW) of less than 26,001 pounds possess a commercial drivers' license (CDL) to do so. The applicants explain that they are often called on to transport what they describe as minibuses from points of manufacture or distribution to school districts around the country, and that

the requirement that drivers hold a CDL to deliver these empty vehicles is an unnecessary restriction that contributes to the driver shortage. FMCSA analyzed the request and public comments and determined that the application provided no evidence that the exemption would ensure a level of safety equivalent to or greater than that achieved absent such exemption.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202-366-2722. Email: [MCPSD@dot.gov](mailto:MCPSD@dot.gov). If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

### I. Public Participation

#### Viewing Comments and Documents

To view comments, go to [www.regulations.gov](http://www.regulations.gov), insert the docket number "FMCSA-2021-0051" in the keyword box, and click "Search." Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, click "Browse Comments."

To view documents mentioned in this notice as being available in the docket, go to [www.regulations.gov](http://www.regulations.gov), insert the docket number "FMCSA-2021-0051" in the keyword box, click "Search," and chose the document to review.

If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

### II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than,

the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

### III. Background

#### *Current Regulatory Requirements*

The regulations in 49 CFR 383.3 require that every individual operating a commercial motor vehicle (CMV) in interstate, foreign, or intrastate commerce hold a valid CDL. Under 49 CFR 383.5, a CMV includes a motor vehicle or combination of motor vehicles used in commerce to transport passengers if the motor vehicle is a small vehicle that does not meet Group A or B requirements but is designed to transport 16 or more passengers, including the driver.

#### *Applicant's Request*

The applicants requested an exemption from the CDL requirements for a driver operating empty passenger CMVs ("minibuses") with seating capacities ranging from 6 to 33, and sometimes more. In all cases, however, the GVWR and GVW of these vehicles are less than 26,001 pounds. The applicants state that they have experienced challenges finding CDL drivers and that bus manufacturers may not be able to move minibuses to distributors and customers.

### IV. Method To Ensure an Equivalent or Greater Level of Safety

To ensure an equivalent level of safety, the applicants emphasize that the drivers would transport empty passenger CMVs with a GVW less than 26,001 pounds, would remain subject to the driver qualification standards in 49 CFR part 391, and would hold a valid operators' license.

### V. Public Comments

On July 14, 2021, FMCSA published notice of the application and requested public comments (86 FR 37207). The Agency received comments from the Advocates for Highway and Auto Safety (Advocates) and an individual; both opposed the exemption request. Advocates stated: "The current application must be denied as it fails to meet the statutory requirements for such

a petition and the exemptions sought would significantly degrade public safety. Notably, Petitioners fail to indicate any alternative solutions they have attempted to implement to address these issues before filing the current Application. The current application would result in a needless threat to public safety by permitting an untold number of CMVs to be transported by individuals without a valid CDL. This would be a drastic departure from current established federal regulations. Further, the applicant has failed to provide FMCSA with the required analysis and supporting information necessitated by statute and thus, should be denied." The individual commenter stated that the applicant failed to mention the increased safety issues that come with driving larger and longer vehicles.

### VI. FMCSA Safety Analysis and Decision

FMCSA has evaluated the joint application and the public comments and decided to deny the exemption. Driving a CMV requires a higher level of knowledge, experience, skills, and physical abilities than that required to drive a non-commercial vehicle. In order to obtain a CDL, an applicant must pass both skills and knowledge tests geared to these higher standards. Additionally, CDL holders are held to a higher standard when operating any type of motor vehicle on public roads. Serious traffic violations committed by a CDL holder can affect their ability to maintain their CDL certification. CDL operators must adhere to a strict and comprehensive set of regulations to keep themselves and other drivers safe on the road.

As Advocates and the individual commenter indicated, the application does not meet the statutory requirements for such a petition, and the requested exemptions sought would significantly degrade public safety. An exemption from the CDL requirements in part 383 would also automatically exempt the drivers from the drug and alcohol testing regulations in 49 CFR part 382. The applicants do not provide countermeasures to be undertaken to ensure that the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulations. Furthermore, the applicants fail to provide the required analysis and supporting information required by statute for submitting this application for exemption.

The Agency cannot ensure that the exemption would achieve the requisite

level of safety and therefore must deny the application.

**Robin Hutchesson,**  
*Deputy Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2022-0083]

#### **Qualification of Drivers; Exemption Applications; Implantable Cardioverter Defibrillators (ICDs)**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

**ACTION:** Notice of applications for exemption; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from three individuals for an exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against operation of a commercial motor vehicle (CMV) by persons with a current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope (transient loss of consciousness), dyspnea (shortness of breath), collapse, or congestive heart failure. If granted, the exemptions would enable these individuals with ICDs to operate CMVs in interstate commerce.

**DATES:** Comments must be received on or before May 27, 2022.

**ADDRESSES:** You may submit comments identified by the Federal Docket Management System (FDMS) Docket ID FMCSA-2022-0083 using any of the following methods:

- **Federal eRulemaking Portal:** Go to [www.regulations.gov/](http://www.regulations.gov/), insert the docket number, FMCSA-2022-0083, in the keyword box, and click "Search." Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, and click on the "Comment" button. Follow the online instructions for submitting comments.

- **Mail:** Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- **Hand Delivery:** West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET,