

Legal Warning Re: CDL's and Traffic Stops

Lawrence Necheles, Attorney at Law

Humming along with traffic in your Chevy Cruze on a lovely Saturday morning on I-55 just past Braceville Road you get stopped by the Illinois State Police for doing 81 mph. You are a CDL holder. The trooper politely informs you to "just send in the ticket, pay the fine and attend traffic safety school and it won't go on your record." Additionally, the trooper checked the "NO COURT APPEARANCE REQUIRED" box on the face of your ticket.

Your wife sends in the paper work, you attend the four hour traffic course and six months later, your CDL is cancelled or DISQUALIFIED. Or you attend court for not having proof of liability insurance, purchase same, enter a guilty plea and receive a \$60.00 fine. Or you get a Municipal ticket for not using a signal or making a Hollywood stop in your F-150, enter a guilty plea and receive Court Supervision or, in other states, a deferral/diversion or a Suspended Sentence. All not reported to your insurance company. Six months later your CDL is cancelled or Disqualified.

What happened? Even though the trooper was courteous and the prosecutor and judge were lenient with you, federal law (FMCSA) under Part 383.51 and Part 391 mandates a Disqualification of your CDL for minor moving violations and some driving related business offenses. Your ticket in your private four-wheeler can get your CDL yanked. In Illinois, Supervision is a CONVICTION for CDL purposes.

This is critical for CDL holders. You need to appear in court. You must personally go to court. I can not emphasize it enough. Even though you're honest and were speeding you need to plead "not guilty" and go to court. Pleading not guilty and honesty are irrelevant in this context.

After you receive your ticket, review it's back side and enter a plea of "NOT GUILTY" and request either a trial or a pre-trial court date. Follow the instructions and send the correct documents or ticket copy to the Court Clerk's office.

Within a few weeks, you should receive a court date for you to appear. At that court date, inform the prosecutor that you were driving your private

automobile and that you are a CDL holder and risk losing your job because your CDL will be cancelled. Most prosecutors on that issue are fair-minded and will hopefully reduce or amend the ticket.

If you contact an attorney, that attorney should physically go to the courthouse, enter an appearance and request a pre-trial or "court" date from the Clerk. In Cook County, the Clerk will place the matter on the Officer's/Trooper's Key Date and give the attorney the date at that time. For Downstate tickets, generally, the Clerk will place the matter on the Jury or Trial Calendar at a later time and the attorney will receive a letter with the new court appearance date.

At your court date, your attorney should negotiate the ticket with the prosecutor down to an offense that will not DQ (Disqualify) you. In exchange for that gesture to reduce or amend the charges, expect to pay an increased fine and court costs. After all, your bacon is being saved here and traffic offenses are fairly easy to prove at trial. A guilty plea to a parking violation, cracked windshield or a loud muffler are the typical dispositions for CDL holders with clean records.

CDL holders, even if you are ticketed in a personal vehicle, can not simply not appear for court and pay a nominal fine and just be done with it. You need to go that extra mile.

Copied with permission from

Mid-West Truckers Association Inc.

Keep on Truckin'... News

Vol. 40, No 4