

What Happens When a Truck Driver Is in FMCSA Clearinghouse Prohibited Status?

A Federal Driving Ban Only Protects Georgia Families When Trucking Companies Honor It

A truck driver who fails a federal drug test, refuses a test, or tests at 0.04 alcohol concentration or higher lands in "prohibited" status. That driver can't legally operate a commercial truck until completing a federal return-to-duty process.

The ban only works if trucking companies check for it. When a prohibited driver causes a [serious truck crash](#), that failure often becomes one of the most important facts in the case.

At [Gary Martin Hays & Associates](#), our Georgia truck accident lawyers look closely at a driver's drug and alcohol testing history in serious trucking cases. A prohibited driver behind the wheel usually means someone at the trucking company skipped a required check, ignored what it found, or never looked.

Key Takeaways

- **Driving Is Banned** – A driver in prohibited status can't perform safety-sensitive functions, including driving a commercial truck, until the return-to-duty process is complete.
- **The CDL Comes Off** – Since November 18, 2024, state licensing agencies must remove commercial driving privileges from prohibited drivers, and Georgia's Department of Driver Services downgrades those licenses.
- **Carriers Have to Check** – Trucking companies must run a full Clearinghouse query before putting a new driver to work and query every driver at least once a year.
- **The Problem Is Large** – As of January 2, 2026, more than 200,000 drivers were in prohibited status, and most of them hadn't started the process to return.
- **The Carrier Can Share the Blame** – In Georgia, a trucking company that puts a prohibited driver on the road can face its own negligence claims, even if it admits the driver was working for it.

What Does Prohibited Status Mean for a Truck Driver?

Prohibited status means the driver is barred from driving a commercial motor vehicle or doing any other safety-sensitive work. Under [49 CFR 382.501](#), no employer may let that driver do so either.

The FMCSA Drug and Alcohol Clearinghouse went live in January 2020. It's the national database that records these violations, so a driver can't simply walk away from one carrier and start over with another.

Since November 18, 2024, federal rules have also required states to take away the commercial license itself. [Georgia's Department of Driver Services](#) removes commercial driving privileges from prohibited drivers until they complete the return-to-duty process.

A driver's status changes to prohibited when a violation of the federal [drug and alcohol prohibitions](#) is reported, including:

- **A Positive Drug Test** – A medical review officer reports a verified positive, adulterated, or substituted drug test within two business days of the determination.
- **An Alcohol Test of 0.04 or Higher** – The employer reports a confirmed alcohol concentration at or above 0.04 by the close of the third business day.
- **Refusing a Required Test** – Refusing a random, post-accident, reasonable suspicion, return-to-duty, or follow-up test counts as a violation, and so does refusing a pre-employment test once the testing process has started.
- **Actual Knowledge Violations** – An employer who personally observes or learns of certain conduct, such as using alcohol within four hours before driving, using alcohol on duty, or drinking within eight hours after a crash before a post-accident test, has to report it.

The driver gets notice by mail when a violation is added to the record, so a driver who keeps driving will have a hard time claiming ignorance. Driving while prohibited is one of several [CDL violations that lead to serious truck crashes](#).

Why Prohibited Drivers Still End Up on Georgia Roads

FMCSA's [Clearinghouse monthly summary report](#) showed 202,345 drivers in prohibited status as of January 2, 2026. Of those, 159,226, nearly 79%, hadn't even started the return-to-duty process.

Marijuana was the most common substance in positive drug tests, with 32,938 positives reported in 2025 alone. Many of those drivers still have the skills, the contacts, and sometimes the truck to keep working if a carrier lets them.

Several gaps let prohibited drivers slip through:

- **Skipped or Late Queries** – A carrier under pressure to fill seats may put a driver to work before running the required full query, or never run it at all.
- **A License That Still Looks Valid** – Under [49 CFR 383.73\(g\)](#), a state has up to 60 days after receiving notice to start downgrading the license, so a driver can carry a CDL that looks valid while already prohibited.
- **Limited Queries Without Follow-Through** – When an annual limited query shows that a record exists, the carrier must run a full query within 24 hours or take the driver off the road. Some carriers never close that loop.

- **Small Operations With Little Oversight** – Owner-operators and very small carriers handle their own compliance, and when the driver is also the business owner, there may be no one independent checking.

The Clearinghouse isn't public. Federal rules sharply limit who can access a driver's record, so an injured person can't just look a driver up.

The proof usually comes out through investigation and discovery. That's why the [trucking company's hiring practices](#) deserve a hard look early in the case.

What a Driver Has to Do to Drive Again

No waiting period clears a violation on its own. The driver has to complete the return-to-duty process, and the [Clearinghouse violations and return-to-duty FAQs](#) lay out each step:

- **Substance Abuse Professional Evaluation** – A qualified substance abuse professional (SAP) evaluates the driver and reports the date of the initial assessment by the close of the next business day.
- **Education or Treatment** – The driver completes the education or treatment the SAP prescribes, and the SAP determines whether the driver has complied.
- **A Negative Return-to-Duty Test** – Once the employer reports a negative return-to-duty test, the driver's status changes from prohibited to not prohibited.
- **Follow-Up Testing** – Under [49 CFR 40.307](#), the SAP must order at least six unannounced follow-up tests in the first 12 months back on the job and can extend testing for up to five years. That plan follows the driver to every new employer.

Here's the detail that often gets missed. A driver can be back in the cab while still in a follow-up testing program, and the carrier that hires that driver has to carry out the SAP's plan.

Refusing a follow-up test is itself a new violation. The original violation stays visible in the Clearinghouse for five years from the violation determination or until return-to-duty and follow-up testing are finished, whichever is later.

Can the Trucking Company Be Held Responsible for Hiring a Prohibited Driver?

Yes, and the trucking company's own conduct is often the heart of the claim. The [Clearinghouse query rules](#) require carriers to run a full query before hiring and to query every driver at least once a year.

A carrier that lets a prohibited driver behind the wheel violates federal law in a way that's usually easy to document. Either the query was run and ignored, or it was never run at all.

Georgia law allows claims directly against the company for negligent hiring, retention, supervision, and entrustment. For years, carriers could often get those claims thrown out by admitting the driver was on the job.

The Supreme Court of Georgia ended that shortcut in [Quynn v. Hulsey](#). In 2020, it held that the state's apportionment statute abrogated the old rule, so a jury can weigh the company's own fault alongside the driver's.

Brokers, maintenance contractors, and others can also share [liability after a Georgia truck accident](#). In a prohibited-driver case, though, the motor carrier usually sits at the center.

Can a Prohibited Driver Case Support Punitive Damages?

It can. Under [O.C.G.A. § 51-12-5.1](#), punitive damages require clear and convincing evidence of willful misconduct or an "entire want of care" that raises a presumption of conscious indifference to consequences. Knowingly dispatching a prohibited driver can be that kind of evidence.

Punitive damages are usually capped at \$250,000. The cap doesn't apply when a defendant acted under the influence of alcohol or drugs that weren't lawfully prescribed, to the point that judgment was substantially impaired.

That uncapped exception applies to the impaired defendant. As a result, evidence about the [driver's drug or alcohol use](#) at the time of the crash matters on its own.

Picture a flatbed driver who tests positive for methamphetamine on a random test, quits before seeing a SAP, and signs on with a small carrier outside Atlanta a few weeks later. The new carrier never runs a pre-employment query, and because the state's downgrade hasn't been processed yet, his license still shows a CDL.

On his fourth run, he plows into slowed traffic on I-285. The missing query record, the hiring file, and the dispatch logs could support negligent hiring and entrustment claims against the new carrier, and the driver's [history of stimulant use](#) could become central to a punitive damages claim.

Records That Can Show Whether the Carrier Checked

Because the Clearinghouse isn't public, these cases turn on the carrier's own records. The [recordkeeping rules](#) set how long those records must be kept, and the clock starts running on the day of the crash:

Record	Who Holds It	Required Retention	What It Can Show
Clearinghouse query records	The trucking company	3 years	Whether and when the carrier ran pre-employment and annual queries
Positive drug tests, alcohol results of 0.02 or higher, refusals, and SAP evaluations	The employer that ordered the test	5 years	Prior violations and what the carrier knew

Record	Who Holds It	Required Retention	What It Can Show
Negative drug tests and alcohol results under 0.02	The employer that ordered the test	1 year	Whether the carrier was testing the driver at all
Post-accident test results	The trucking company	5 years for positives, 1 year for negatives	Whether the driver was impaired when the crash happened
The driver's own Clearinghouse record	FMCSA, released to authorized users	5 years from the violation or until return-to-duty and follow-up testing are done, whichever is later	The violation date, status, and return-to-duty progress

Post-accident testing adds urgency. Under [49 CFR 382.303](#), a carrier generally has to test the driver after a fatal crash, or after a crash where the driver gets a citation and someone needs medical treatment away from the scene or a vehicle has to be towed.

Alcohol testing should happen within two hours and can't happen after eight, and drug testing can't happen after 32 hours. When a test isn't done, the carrier has to write down why.

A prompt preservation letter helps keep these records from disappearing. Georgia courts can also sanction a company for [destroying truck accident evidence](#).

Will the Trucking Company's Insurance Still Pay?

Liability and insurance coverage are separate questions. For-hire interstate carriers hauling general freight must carry at least \$750,000 in liability coverage under [49 CFR 387.9](#), with higher minimums for oil and hazardous materials.

Those policies must include the federal [MCS-90 endorsement](#). It generally obligates the insurer to pay a final judgment for public liability up to the federal minimum even if a policy condition would otherwise deny coverage, and the carrier then has to reimburse the insurer.

Georgia also narrowed when you can sue a motor carrier's insurer directly. For crashes after July 1, 2024, [O.C.G.A. § 40-1-112](#) permits joining the insurer only in limited situations, such as when the carrier is insolvent or bankrupt or can't be served after reasonable diligence.

That change makes it more important to identify every responsible party and every available policy early. [Dealing with the trucking company's insurer](#) without help can put your claim at a disadvantage.

Demanding Accountability When the Trucker Never Should Have Been Driving

A prohibited status violation isn't a technicality. It means federal law had already decided this driver shouldn't be operating a commercial truck, and someone put the driver there anyway.

If you were hurt in a crash with a commercial truck, or you lost a family member in a [fatal truck wreck](#), our Georgia truck accident lawyers can dig into the driver's testing history, the carrier's query records, and the insurance behind them.

The consultation is free, and you pay nothing unless we win your case. Give us a call or [contact us online today](#) to see how we can help.