

## **Order to Adopt**

### **Title 13, Division 1, Chapter 1**

#### **Article 2.1 – Commercial Driver's Licenses**

##### **§ 26.04. English Language Proficiency Requirements for Commercial Driver's License Applicants.**

(a) Prior to administering the commercial driving skills test as required by California Vehicle Code §15250(b)(2)(C) and §383.23 of Title 49, Code of Federal Regulations, the department shall conduct an English Language Proficiency (ELP) assessment. The ELP assessment shall be administered by an Examiner and shall be completed within 30 minutes. The test shall consist of 15 oral questions and a test of 4 highway traffic signs. In order to successfully pass the assessment, the driver must be able to respond appropriately in English to at least 10 of the 15 oral questions and correctly identify at least 3 of the highway traffic signs. A response is "appropriate in English" when the driver demonstrates clear understanding of the question or sign by giving an English-language response that is relevant and factually correct. The driver is allowed three attempts to pass the ELP assessment before they must reapply for a CDL. The purpose of the ELP assessment is to determine whether the driver is able to speak English sufficiently to converse with the public, understand highway traffic signs and signals, and respond to official inquiries as required by §391.11 of Title 49, Code of Federal Regulations.

Note: Authority cited: Sections 1651 Vehicle Code. Reference: 15250 Vehicle Code and 49 C.F.R. 383.23 and 391.11.

##### **§ 26.06. English Language Proficiency Requirements for Existing Commercial Driver's License Holders.**

(a) Upon receipt of an out-of-service notice issued by the California Highway Patrol, pursuant to 13 CCR Section 1239, stating that a commercial driver has not demonstrated English language proficiency, the department shall schedule an English Language Proficiency (ELP) assessment. The ELP assessment shall be administered by an Examiner and shall be completed within 30 minutes. The test shall consist of 15 oral questions and a test of 4 highway traffic signs. In order to successfully pass the assessment, the driver must be able to respond appropriately in English to at least 10 of the 15 oral questions and correctly identify at least 3 of the highway traffic signs. The purpose of the ELP assessment

is to determine whether the driver is able to speak English sufficiently to converse with the public, understand highway traffic signs and signals, and respond to official inquiries. A response is "appropriate in English" when the driver demonstrates clear understanding of the question or sign by giving an English-language response that is relevant and factually correct.

(b) The department shall notify the driver by U.S. mail of the date, time, and location of the ELP assessment, the reason the assessment is required, and the consequences of failing or not appearing for the assessment. The assessment shall be scheduled no earlier than seven days and no more than two weeks after the date the notice is mailed.

(1) If the driver passes the ELP assessment, the department shall issue a No Action Letter (NAL) indicating satisfactory English language proficiency and the Driver Safety case shall be closed.

(2) If the driver does not pass the initial ELP assessment, the department shall offer the driver the opportunity to take a second assessment on the next available test date.

(3) If the driver fails the second ELP assessment, the driver shall be required to take and pass a written CDL knowledge test, pursuant to 49 C.F.R. Section 383.25(a)(3), administered in the English language only in order to establish English language proficiency.

(4) If the driver does not take or fails to schedule the second ELP assessment, absent good cause the department shall notify the driver that their driver's license has been restricted to Class C operation only, limiting the driver to operating non-commercial vehicles. Good cause means a circumstance beyond the driver's control that prevents the driver from appearing for, scheduling, or completing the ELP assessment, and which the driver could not have reasonably avoided. Good cause includes, but is not limited to, a documented medical emergency involving the driver, hospitalization or urgent medical treatment, unforeseen vehicle breakdown or transportation disruption, natural disaster or hazardous weather conditions, civil emergencies, or required attendance at a court proceeding or other legal or government appointment. To establish good cause, the driver shall notify the department in writing via U.S. mail and physically received by the department no later than the scheduled assessment date and shall provide documentation sufficient to verify the

circumstance preventing attendance. Failure to timely submit such notice and documentation shall result in a determination that good cause has not been established.

(5) If the driver does not take or fails to schedule the second ELP assessment. The driver shall be required to appear at a departmental field office to downgrade the driver's license to non-commercial status and obtain a new photograph. The driver shall be informed of the right to contest the license downgrade at a hearing before a Driver Safety Hearing Officer, which may be requested pursuant to Section 115.04, Title 13, Article 2.4 of the California Code of Regulations.

(6) If the driver does not appear at a departmental field office to complete the downgrade process, the department shall automatically downgrade the driver's license to non-commercial status thirty (30) days after the date the restriction notice is mailed and shall mail written confirmation of the downgrade to the driver's address of record.

(7) If the driver passes the written CDL knowledge test, the department shall issue a NAL indicating satisfactory English Language proficiency, and the Driver Safety case shall be closed.

(8) If the driver fails or does not take the written CDL knowledge test pursuant to (b)(3), the driver shall be required to appear at a departmental field office to downgrade the driver's license to non-commercial status and obtain a new photograph. If the driver does not appear at a departmental field office to complete the downgrade process, the department shall automatically downgrade the driver's license to non-commercial status thirty (30) days after the date the restriction notice is mailed and shall mail written confirmation of the downgrade to the driver's address of record. The driver shall be informed of the right to contest the Class C restriction at a hearing before a Driver Safety Hearing Officer, which may be requested pursuant to Section 115.04, Title 13, Article 2.4 of the California Code of Regulations.

Note: Authority cited: Sections 1651, Vehicle Code. Reference: Section 12818, 14100, and 15250 Vehicle Code; and 49 C.F.R. 391.11.