Ohio Administrative Code

Rule 4501:1-1-24 Disqualification of commercial driver for certain convictions.

Effective: April 10, 2016

(A) Whenever the registrar of motor vehicles receives information that a driver has received a conviction of an offense described in section 4506.15 of the Revised Code or division (B)(4), (B)(5), or (B)(6) of section 4506.16 of the Revised Code or receives a sworn report as described in section 4506.17 of the Revised Code and the driver is thereby subject to disqualification, the registrar shall notify the driver, by regular mail to the driver's last known mailing address of the offense or offenses involved, of the length of time for which disqualification is to be imposed, and that the driver may request a hearing within thirty days of the mailing of the notice to show cause why he or she should not be disqualified from operating a commercial motor vehicle.

(B) The notice shall also inform the driver that at the hearing he or she may appear in person or by his or her attorney or may present his or her position, argument, or contentions in writing and that at the hearing he or she may present evidence and examine witnesses appearing for and against him.

For the purposes of this rule, conviction of a violation for which disqualification is required may be evidenced by any of the following:

(1) A judgment entry of a court of competent jurisdiction;

(2) An administrative order of a state agency having statutory jurisdiction over commercial drivers, including a notice of disqualification as described in division (F) of section 4506.16 or in division (E) of section 4506.17 of the Revised Code;

(3) A computer record obtained from or through the commercial driver's license information system;

(4) A computer record obtained from or through a state agency having statutory jurisdiction over drivers or the records of commercial drivers.

(C) If a request for such a hearing is not received by the bureau of motor vehicles within thirty days

of the mailing of the notice, the order of disqualification is final without further notice to the driver.

(D) If a request for such a hearing is received by the registrar within thirty days of the mailing of the notice, the registrar shall stay the imposition of the disqualification order and shall schedule the matter for hearing. To the extent it is practical to do so, the registrar shall schedule the hearing no sooner that twenty-eight days and no later than sixty-three days after the receipt of the request for hearing. The failure of the registrar to schedule the hearing within such times shall not affect the validity of any order issued as the result of the hearing whenever it is scheduled. No later than fourteen days prior to the hearing, the registrar shall notify the driver of the date, time, and place of the hearing by regular mail sent to the driver's last known address. The notice shall also inform the driver that at the hearing he or she may appear in person or by his or her attorney, or may present his or her position, arguments, and contentions in writing and that at the hearing he or she may present evidence and examine witnesses appearing for and against him. A copy of the notice shall be mailed to the driver's attorney of record if an attorney has entered an appearance in the matter.

(E) The hearing shall be held in Franklin county, Ohio, unless the registrar designates another location within the state, which in no instance shall be farther from the driver's residence than Franklin county.

(F) No continuance of any hearing shall be granted unless there is a showing of good cause. The order granting any continuance shall set a date certain for the hearing no later than seventy days after the original hearing was scheduled. In issuing any order granting a continuance, the registrar may, upon his or her own determination or upon recommendation of the hearing examiner, terminate the stay of the disqualification and impose the disqualification pending final disposition.

(G) In any disqualification hearing, the registrar may appoint a hearing examiner to conduct said hearing. The hearing examiner shall have the same powers and authority in conducting said hearing as granted to the agency. Such hearing examiner shall have been admitted to the practice of law in this state and be possessed of such additional qualifications as the registrar requires. The hearing examiner shall submit to the agency a written report setting forth his or her findings of fact and conclusions of law and a recommendation of the action to be taken by the agency. A copy of such written report and recommendation of the examiner shall be served upon the party or his or her attorney of record, by regular mail. The party may, within fourteen days of mailing of such copy of

such written report and recommendation, file with the agency written objections to the report and recommendation, which objections shall be considered by the agency before approving, modifying, or disapproving the recommendation. The agency may grant extensions of time to the party within which to file such objections. No recommendation of the referee or examiner shall be approved, modified, or disapproved by the agency until after fourteen days after mailing of such report and recommendation as provided in this rule. The agency may order additional testimony to be taken or permit the introduction of further documentary evidence. The recommendation of the referee or examiner may be approved, modified, or disapproved by the agency, and the order of the agency based on such report, recommendation, transcript of testimony and evidence, or objections of the parties, and additional testimony and evidence shall have the same effect as if such hearing has been conducted by the agency. No such recommendation shall be final until confirmed and approved by the agency as indicated by the order entered on its record of proceedings, and if the agency modifies or disapproves the recommendation of the hearing examiner it shall include in the record of its proceedings the reasons for such modification or disapproval. After such order is entered, the agency shall serve by regular mail upon the party affected thereby, a copy of the order and a statement of the time and method by which an appeal may be perfected. An appeal of the order shall not stay the imposition of any disqualification unless a stay order is issued by the court to which the appeal is made. A copy of such order shall be mailed to the attorney of record representing the party.

(H) For the purpose of conducting the hearing the agency shall have the subpoena powers as set forth in section 119.09 of the Revised Code. The agency may require the attendance of such witnesses and the production of such books, records, and papers as it desires, and it may take the depositions of witnesses residing within or without the state in the same manner as prescribed by law for taking of depositions in civil actions in the court of common pleas, and for the purpose the agency may, and upon the request of any party receiving notice of said hearing shall, issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers, directed to the sheriff of the county where such witness resides or is found, which shall be served and returned in the same manner as a subpoena in a criminal case. The fees and mileage of the sheriff and witnesses shall be the same as that allowed in the court of common pleas in criminal cases. Fees and mileage shall be paid from the fund in the state treasury for the use of the agency in the same manner as other expenses of the agency. In any case of disobedience or neglect of any subpoena served on any person or the refusal of any witness to testify to any matter regarding

which he or she may lawfully be interrogated, the court of common pleas of any county where such disobedience, neglect, or refusal occurs or any judge thereof, on application by the agency shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court, or a refusal to testify therein. At any hearing, the record of which may be the basis of an appeal to court, a stenographic record of the testimony and other evidence submitted shall be taken at the expense of the agency. Such record shall include all of the testimony and other evidence, and rulings on the admissibility thereof presented at the hearing. The stenographic record need not be transcribed unless it is required for an appeal to court.

(I) The agency shall pass upon the admissibility of evidence, but a party may at the time make objection to the rulings of the agency thereon, and if the agency refuses to admit evidence, the party offering the same shall make a proffer thereof, and such proffer shall be made a part of the record of such hearing.