Cross-border Compliance: Your Canadian Drivers Could Be Pulled Off U.S. Roads Starting Now. Here's What Every Motor Carrier Needs To Know



New U.S. roadside enforcement rules are putting language skills under the spotlight. Canadian transportation companies need to be ready.

What did the U.S. Federal Motor Carrier Safety Administration's (FMCSA) change, and why does it matter to you?

In Part 1 of this series, we examined the legal and operational implications of the FMCSA revised English language enforcement policy, which took effect on June 25, 2025, and gives U.S. roadside inspectors the authority to place a driver out of service if that driver cannot:

- Read and speak English well enough to converse with the general public;
- Understand U.S. highway traffic signs and signals;
- Respond to official inquiries from inspectors; and
- Complete required forms and documentation.

For Canadian carriers running cross-border routes into the U.S., every driver who interacts with U.S. enforcement personnel is now a compliance risk if their English isn't up to standard. That means hiring practices, dispatch assignments, and driver training programs all need a hard look.

Can you legally require English proficiency from your drivers?

Short answer: yes, but only if you do it right.

Language-based cross-border requirements raise important questions for Canadian employers, particularly those whose drivers operate in the United States. To comply with the FMCSA's revised English language enforcement policy without violating Canadian human rights law, any English proficiency requirement must be clearly connected to the actual duties of the job.

While language is not explicitly listed as a prohibited ground of discrimination under the *Canadian Human Rights Act*, an employer's language requirement may still raise concerns if it has an adverse impact based on national or ethnic origin, both of which are protected grounds. In such cases, employers may justify the language requirement by demonstrating that it constitutes a bona fide occupational requirement (BFOR).

In Quebec, the *Charter of Human Rights and Freedoms* goes further by expressly prohibiting discrimination based on language. As a result, any language-based qualification, such as a requirement to speak English, must be demonstrably necessary for the role.

To establish that a language requirement qualifies as a BFOR, an employer must demonstrate that the requirement:

- is rationally connected to the performance of the job;

- was adopted in good faith; and
- is reasonably necessary, such that accommodating an employee who does not meet it would impose undue hardship.

This framework helps employees determine whether an English proficiency requirement is justifiable for cross-border drivers, particularly when regular interaction with U.S. enforcement personnel is part of the job.

In practice, employers should avoid blanket language requirements and ensure that employment decisions, such as hiring, reassigning or terminating a driver, are grounded in specific, job-related criteria.

Quebec carriers: you have an extra layer to navigate

In addition to complying with human rights legislation, Quebec-based employers must meet distinct obligations under the *Charter of the French Language* (the "*Charter*"), significantly bolstered by the amendments contained in *An Act Respecting French, the official and common language of Quebec (formerly Bill 96)*. The amendments introduced important requirements related to workplace communications, employee training, and employment documentation in French.

These obligations apply to businesses operating in Quebec. As a result, carriers, brokers, and shippers based in Quebec must ensure that their French language compliance efforts extend across their operations. Cascading these obligations throughout the supply chain is essential to meeting the Charter's French-language requirements.

Most employers with operations in the Province of Quebec must now ensure that:

- French is **the default language** for internal

communications, employment contracts, and training materials;
- any requirement to use other language, such as English, is clearly justified by the nature of the job and its responsibilities; and
- they can **demonstrate** that the position cannot reasonably be performed in French and that the use of another language is essential.

For employers in the transportation sector, these requirements are particularly relevant when hiring commercial drivers, many of whom work in cross-border roles. While U.S. law may require English proficiency for roadside inspections, Quebec's language laws place strict limits on when another language, such as English, can be required as part of the job.

To remain compliant with the *Charter*, Quebec-based carriers and brokers should reserve English language requirements for cross-border driver positions where such skills are demonstrably necessary and clearly identify which tasks or documents are required solely to meet U.S. compliance obligations.

Bottom line

The FMCSA's tightened English proficiency standards have ripple effects for Canadian cross-border transportation. Compliance requires careful structuring of assessment and training programs while safeguarding employees under Canadian human rights laws and Quebec's French language laws.

By aligning hiring practices, dispatch procedures, communication tools, and training initiatives with these evolving frameworks, motor carriers can minimize legal risks and maintain efficient cross-border operations

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be

sought about your specific circumstances.

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