

Outline - Hours of service: Property - Carrying Vehicles

1. Who must follow the hours-of-service regulations, and when

All motor carriers, drivers, and commercial motor vehicles that transport property or passengers in interstate commerce must follow the hours-of-service regulations.

A commercial motor vehicle is defined in Part 390 of the Federal Motor Carrier Safety Regulations (FMCSR) as:

- * having a gross vehicle weight rating or gross combination weight rating or gross vehicle weight or gross combination weight of 10,001 pounds (4,537 kilograms) or more, whichever is greater;
- * designed or used to transport 16 or more passengers including the driver;
- * designed or used to transport between 9 and 15 passengers (including the driver) for compensation; or
- * transporting hazardous materials in a type and quantity which require placarding.

Many states also have hours-of-service requirements that apply to intrastate operations (i.e., within that specific state). State requirements may match federal requirements in whole or in part.

The driving and on-duty limits that apply to a given driver depend on whether the driver is hauling property or passengers. This training session will focus on the limits for drivers of property-carrying vehicles.

The following drivers are exempt from the federal hours-of-service rules in Part 395 (refer

to §390.5 and §395.2 for definitions of specific terms):

- * Drivers of utility service vehicles;
- * Drivers of covered farm vehicles;
- * Railroad signal employees regulated by the Federal Railroad Administration; and
- * Drivers transporting the following during planting and harvesting periods, as determined by each state, within a 150-air-mile radius: (1) Agricultural commodities from the source of the agricultural commodities to another location; (2) Farm supplies for agricultural purposes from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used; or (3) Farm supplies for agricultural purposes from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies.

2. The 11-hour driving rule

The 11-hour driving rule is quite simple. All time spent behind the wheel is considered driving time. After 11 hours of driving time, the driver must have 10 consecutive hours of rest before he/she can drive again.

The following are exceptions to the 11-hour driving rule (see §395.1 for details):

Adverse conditions. A driver who encounters adverse conditions, on a run that could normally be completed within 11 hours, is allowed an additional 2 hours of driving to complete the run or reach a place offering safety. However, the driver must not drive for more than 13 hours following 10 consecutive hours off duty, or after 14 consecutive hours after coming on duty following 10 consecutive hours off duty.

Emergencies. In an emergency situation, a driver may complete his/her run without being in violation, if the run could normally be completed within the hours-of-service limitation.

An emergency does not include shipper demands, market declines, a shortage of drivers, mechanical failure, or a driver's desire to get home. See §390.5 for a specific definition of "emergency."

Local Christmas deliveries. The maximum driving time does not apply to a driver of a vehicle engaged solely in making local deliveries from retail stores and/or retail catalog businesses to the ultimate consumer when he/she is driving within the 100 air-mile radius of his/her work-reporting location during the period from December 10 through 25 each year.

Driver in Alaska. The maximum driving time does not apply to a driver operating a CMV in Alaska. The driver of a CMV in Alaska cannot drive for more than 15 hours following 10 consecutive hours off duty.

Motion picture production. A driver of a commercial motor vehicle providing transportation of property or passengers to or from a theatrical or television motion picture production site is exempt from the 11-hour driving limit if the driver operates within a 100 air-mile radius of the location where the driver reports to and is released from work, i.e., the normal work-reporting location. Such a driver may not drive for more than 10 hours following 8 consecutive hours off duty.

3. The 14-hour rule

A driver cannot drive after the 14th consecutive hour after coming on duty following a 10-consecutive-hour break.

Because the 14 hours is consecutive, it includes all driving time, on-duty time, and off-duty time (such as lunch breaks).

The following are exceptions to the 14-hour rule (see §395.1 for details):

Sleeper berth. Drivers who spend at least 8 but less than 10 consecutive hours in a sleeper

berth may exclude that time from the 14-hour calculation. Up to 2 hours spent riding in a

passenger seat on a moving CMV immediately before or after spending at least 8 hours in a sleeper berth may also be excluded.

Short-haul drivers. See below for details.

Oilfield waiting time. Specially trained drivers of CMVs which are specially constructed to service oil wells may exclude their waiting time at a natural gas or oil well site from the 14-hour calculation.

Local Christmas deliveries. The 14-hour rule does not apply to a driver of a vehicle engaged solely in making local deliveries from retail stores and/or retail catalog businesses to the ultimate consumer when he/she is driving within the 100 air-mile radius

of his/her work-reporting location during the period from December 10 through 25 each year.

Drivers in Alaska. The 14-hour rule does not apply to a driver operating a CMV in Alaska. The driver of a CMV in Alaska cannot drive after being on duty for 20 hours following 10 consecutive hours off duty.

Motion picture production. A driver of a commercial motor vehicle providing transportation of property or passengers to or from a theatrical or television motion picture production site is exempt from the 14-hour rule if the driver operates within a 100 air-mile radius of the location where the driver reports to and is released from work, i.e., the normal work-reporting location. Such a driver may not drive for any period after having been on duty 15 hours following 8 consecutive hours off duty.

4. The mandatory 30-minute break rule

CMV driving is not permitted if more than 8 consecutive hours have passed since the end of the driver's last off-duty and/or sleeper-berth period of at least 30 consecutive minutes.

An off-duty lunch break, time spent resting in a sleeper berth, or time spent resting in a stationary vehicle will satisfy the break requirement in most cases, as long as the driver is relieved of duty.

The break must be at least a consecutive 30 minutes long and can be spent off duty, in a sleeper berth, or using any combination of off-duty and sleep-berth time. The driver must perform no on-duty tasks (such as fueling) during the break.

Under this rule, non-driving work can be performed after 8 hours without a break, but there can be no CMV driving after 8 hours since the end of the last 30-minute break.

All breaks of less than 10 hours (except sleeper-berth periods of at least 8 hours) will count against the driver's 14-hour limit.

Exception: Drivers who must attend to explosives (Div. 1.1, 1.2, or 1.3) may count 30

minutes or more of their on-duty attendance time as their mandatory break, as long as they do not perform work during that time. The time must be recorded as "on duty" but a note can be entered on the log to indicate the period of time that was used to satisfy the break requirement.

5. Discuss the 60-hour/7-day limit and 70-hour/8-day limit.

This hours-of-service rule consists of two limits. The number of days per week your company operates will determine which limit your drivers need to follow.

60-hour/7-day limit. A driver cannot drive after having been on duty for 60 hours in any 7 consecutive days. A driver can do non-driving work after reaching the limit and not be in violation, but those hours must be added to the total.

On-duty time includes:

- * all time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by his/her motor carrier;
- * all time inspecting equipment as required by Sec.392.7 and Sec. 392.8 or otherwise inspecting, servicing, or conditioning any motor vehicle at any time;
- * all driving time (defined as all time spent at the controls of a commercial motor vehicle in operation);
- * all time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth, time spent resting in or on a parked vehicle, and up to 2 hours spent riding in the passenger seat of a moving property-carrying vehicle immediately before or after spending at least 8 consecutive hours in a sleeper berth.
- * all time loading or unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a commercial motor vehicle being loaded or unloaded, remaining in readiness to operate the commercial motor vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
- * all time repairing, obtaining assistance, or remaining in attendance upon a disabled commercial motor vehicle;
- * all time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with drug and alcohol testing requirements;
- * performing any other work in the capacity of, or in the employ or service of, a common, contract, or private motor carrier; and
- * performing any compensated work for any non-motor carrier entity.

A company that does not operate commercial motor vehicles every day of the week must use the 60-hour/7-day schedule. A company that operates vehicles every day of the week may use the 60-hour/7-day schedule, or assign some or all of its drivers to a 70-hour/8-day schedule.

The 7 consecutive days does not mean a week (Sunday through Saturday), it means any 7-

consecutive-day period. A driver doesn't really "start over" when counting total hours. The oldest day's hours drop out of consideration as each new day's hours are added.

70-hour/8-day limit. A driver cannot drive after having been on duty for 70 hours in any 8 consecutive days. A driver can do non-driving work after reaching the limit and not be in violation, but those hours must be added to the total.

A company that operates commercial motor vehicles every day of the week may assign some or all of its drivers to the 70-hour/8-day schedule. The 70-hour/8-day rule is a permissive provision in that a motor carrier with vehicles operating every day of the week may use either the 70-hour/8-day limit or the 60-hour/7-day limit.

The 8 consecutive days does not mean a "work week," it means any 8-consecutive-day period. A driver doesn't really "start over" counting total hours. The oldest day's hours drop out of consideration as each new day's hours are added.

The following are exceptions to the 60-hour/7-day and 70-hour/8-day limit:

Two restrictions apply to the timing of any 34-hour restart. First, drivers are only able to use the restart option once per 7 days. Specifically, drivers will not be able to begin a 34-hour restart break until 168 hours (7 days) have passed since the beginning of the last restart break. If a driver takes more than one period of 34 hours off duty within a 168-hour

period, he or she must indicate which rest period is being used as the restart, using the Remarks area of the log. Second, each 34-hour restart period must include the 28-hour stretch from 1:00 a.m. on the first day until 5:00 a.m. the following day, plus enough additional hours to equal 34. This ensures that drivers get two consecutive nights of rest, including the hours from 1:00 a.m. – 5:00 a.m. This also means that some drivers will need to take more than 34 hours off in order to get a restart. Driver-salesperson. The 60-hour/7-day and 70-hour/8-day limit do not apply to a driver-salesperson whose total driving time does not exceed 40 hours in any period of 7 consecutive days.

Drivers in Alaska. A driver who is operating a CMV in Alaska may not drive after being on duty 70 hours in any period of 7 consecutive days, if the motor carrier does not operate every day of the week, or 80 hours in any period of 8 consecutive days, if the motor carrier operates every day of the week.

Ground water well drilling operations. When the driver of a commercial motor vehicle (who is used primarily in the transportation and operations of a ground water well drilling rig) is off duty for at least 24 consecutive hours, the period of 7 or 8 days ends at the beginning of the off-duty time. The clock "restarts" when the driver goes on duty again.

Construction materials and equipment. The driver of a CMV used primarily in the transportation of construction materials and equipment may restart his/her 7- or 8-day clock after an off-duty period of at least 24 consecutive hours. The transportation of construction materials and equipment is defined as the transportation of construction and pavement materials, construction equipment, and construction maintenance vehicles by a

driver, to or from an active construction site within a 50-air-mile radius of the normal work reporting location of the driver. This exemption does not apply to drivers transporting placardable amounts of hazardous materials

6. The sleeper-berth option

When done correctly, the sleeper berth can help a driver, or team of drivers, accumulate off-duty time while staying on the road for a maximum amount of time without a layover.

As mentioned earlier in this training program, upon reaching the 11-hour driving limit, a driver must have 10 consecutive hours off duty before he/she may drive again. The sleeper-berth option is one way to accumulate the required hours in one 10-hour period or in two separate periods totaling 10 hours.

If the rest time is being taken in two separate periods, one of the breaks must consist of at least 8 (but less than 10) consecutive hours in a sleeper berth. This break will not count against the 14-hour limit (i.e., it will extend the day). The other break must be at least 2 (but less than 10) consecutive hours either in a sleeper berth, off duty, or any combination of the two. This break will always count against the 14-hour limit, and can be taken either before or after the 8-hour sleeper period.

Drivers can log "off duty" for up to 2 hours while riding in a passenger seat on a moving property-carrying vehicle immediately before or after spending at least 8 consecutive hours in a sleeper berth. This off-duty time, along with the sleeper-berth time, can be excluded from the 14-hour calculation.

When accumulating 10 hours of rest in two separate periods, the driver does not have a full 11 and 14 hours available at the conclusion of the two periods. Rather, once the driver has two qualifying rest breaks that add up to 10 hours, then, following the second rest break, hours available under the 11- and 14-hour rules must be recalculated from the end of the first of the two breaks (the time spent before the first break drops out of consideration).

The sleeper berth can also be used in satisfying the 10 consecutive hours off-duty requirement by combining sleeper-berth time with any legitimate off-duty time. However, the periods must be consecutive and not broken with any on-duty or driving activities.

Only time spent in a sleeper berth may be recorded as sleeper-berth time on a driver's record of duty status (driver's log). Sleeper-berth time may not be recorded as off-duty time.

Sleeper-berth example. The following is an example of an ideal sleeper-berth situation. Of

course, real life experiences vary.

Theoretically, after 10 hours off, a driver could drive for 5 hours, spend 8 hours in the sleeper berth, and drive another 6 hours, reaching the 11-hour driving limit and hour 11 out of his/her allowed 14 (because the 8-hour sleeper period is excluded). To do any more driving, the driver has a choice to make: either go off duty and/or in the sleeper for 10 consecutive hours OR go off duty and/or in the sleeper for just 2 hours (because he/she already had an 8-hour sleeper period).

After taking 2 more hours off, the driver has accumulated the necessary 10 hours off duty using two separate, qualifying breaks, so he/she can start driving again. To find available driving time, the driver must subtract from 11 the number of hours driven since the first of the two breaks, leaving 5 hours of driving time. To find available time under the 14-hour rule, the driver must subtract from 14 all time since the end of the first of the two breaks (the 8-hour sleeper period), including the 2-hour break (any break of less than 8 hours in the sleeper will count against the 14-hour limit). The driver has $14 - 6 - 2 = 6$ hours remaining.

The subtraction rule holds true until a driver has a complete block of 10 hours off at one time. When that happens the driver will have a full 11 hours of driving time available within a 14-hour window, provided the driver hasn't exceeded the overall on-duty time boundaries.

7. The short-haul exceptions

100 air-mile radius exception. A driver is not required to fill out a log if the following criteria are met:

- * the driver operates within a 100 air-mile radius of the normal work reporting location;
- * the driver (except a driver salesperson) returns to the work reporting location and is released from work within 12 consecutive hours;
- * at least 10 consecutive hours off duty separate each 12 hours on duty;
- * the driver does not drive more than 11 hours following 10 hours off duty; and
- * the motor carrier maintains the driver's time records for 6 months showing the time the driver reports for duty each day, the time the driver is released from duty each day, the total number of hours the driver is on duty each day, and the total time on duty for the preceding 7 days for drivers used the first time or intermittently.

Note: A 100 air-mile radius driver is not exempt from the 60-hour/7-day or 70-hour/8daylimit.

16-hour short-haul exception. A driver can drive after the 14th consecutive hour after coming on duty, but not after the 16th hour, if he or she:

- * was released from duty at the normal work reporting location for the previous 5 duty tours;

- * returns to the normal work reporting location and is released from duty within 16 hours;
- * has not used this exception in the previous 6 days, except following a 34-hour restart;
- and
- * does not drive more than 11 hours after 10 consecutive hours off duty.

Note: Short-haul drivers who normally use the 100-air-mile exception and do not complete a standard grid log will have to complete a log on days when they use the 16-hour short-haul exception, because they are working beyond the 12-hour limit.

Non-CDL-driver short-haul exception. The driver of a vehicle for which a CDL is not required under Part 383 is exempt from the log requirements and the 14-hour rule if:

- * the driver operates within a 150 air-mile radius of the location where the driver reports to and is released from work (i.e., the normal work reporting location);
- * the driver returns to the normal work reporting location at the end of each duty tour;
- * the driver does not drive after the 14th hour after coming on duty on 5 days of any period of 7 consecutive days, or after the 16th hour after coming on duty on 2 days of any period of 7 consecutive days (any 7-consecutive-day period may be reset with 34 consecutive hours off duty); and
- * the motor carrier that employs the driver maintains for 6 months accurate records showing the time the driver reports for duty each day, the total number of hours the driver is on duty each day, and the time the driver is released from duty each day (and the total time for the preceding 7 days for drivers used for the first time or intermittently).

Note: Drivers using this exception remain subject to the 10-hour off-duty rule, the 11-hour driving rule, and the 60/70-hour limits. Drivers who use this exception are ineligible to use the 100-air-mile radius exception, the sleeper-berth provisions, or the 16-hour shorthaul exception.