



## Section 11: Driver's Hours of Service

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### Driver's Hours of Service

#### 49 CFR Part 395 and Minn. Stat. § 221.0314

A carrier and its drivers are subject to the hours of service regulations in Minnesota if they operate vehicles that are:

- Over 10,000 pounds GVW or GVWR operating in interstate or intrastate commerce;
- Designed to transport 16 or more passengers, including the driver, operating in interstate commerce;
- Designed or used to transport between 9 and 15 passengers, including the driver, operating in interstate commerce for direct compensation;
- Designed to transport eight or more passengers, including the driver, operating for-hire in intrastate commerce; or
- Of any size transporting hazardous material of a type or quantity that requires the vehicle to be placarded operating in interstate or intrastate commerce.

#### Carriers Not Subject to Hours of Service Rules (Minn. Stat. § 221.031)

A carrier and its drivers are exempt from hours of service regulations if they are engaged in intrastate commerce **and** are:

- A farmer or farm employee transporting agricultural products, farm machinery, or supplies to or from their farm, provided they are not transporting hazardous materials of a type or quantity requiring the vehicle to be marked or placarded and the vehicle is not being operated for-hire.
- A private carrier transporting agricultural and other farm products within 50 miles of the carrier's business location.
- A private carrier engaged in the transporting of construction material, tools, and equipment from shop to job site or job site to job site, for the private carrier's use in construction, remodeling, or repair of buildings, structures or their appurtenances.
- A private carrier who is a public utility, electric co-op, or telephone company.
- A carrier providing transportation as described in Minn. Stat. § 221.025, (1) or (3) through (14). See "Exempt Carriers" in Section 14.

- Transporting agricultural commodities or farm supplies for agricultural purposes within a 150 air mile radius from the source of the commodities or supplies during the planting and harvest seasons from January 1 to December 31 each year.
- A Covered Farm Vehicle. (See Section 20 for the definition of a Covered Farm Vehicle.)
- A motor carrier of Railroad Employee (Minn. Stat. §221.0255 has specific rules for hours of service for Motor Carriers of Railroad Employees).

**Hours of Service Rules:** There are different hours of service regulations for passenger carriers and property carriers.

### **Passenger Carriers**

Passenger carriers may not permit or require a driver to drive, and no driver shall drive a passenger carrying vehicle after:

- More than 10 hours driving time following eight consecutive hours off-duty;
- Being on duty 15 hours following eight consecutive hours off-duty; or
- Being on duty 60 hours in any seven consecutive days if the carrier does not operate every day of the week or being on duty 70 hours in any eight consecutive days if the carrier operates every day of the week.

### **Property Carriers**

Property carriers may not permit or require a driver to drive and no driver shall drive a property carrying vehicle:

- After more than 11 cumulative hours following 10 consecutive hours off-duty;
- For any period after the end of the 14 hour driving window after coming on-duty following 10 consecutive hours off-duty;
- After more than 8 hours of driving time have passed without a consecutive interruption in driving status of at least 30 minutes; and
- After being on duty 60 hours in any seven consecutive days if the carrier does not operate every day of the week; or

- Being on duty 70 hours in any eight consecutive days if the carrier operates every day of the week.

For property carrier drivers, any period of seven or eight consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours.

**There are four duty statuses for a CMV driver:**

- “On-duty” time is all time a driver spends performing work or being ready to work, until being relieved by the carrier of all responsibility. “On-duty” time also includes any compensated work performed by the driver for a carrier or non-motor carrier entity.
- “Driving” time is all time spent at the driving controls of a commercial motor vehicle in operation.
- “Off-duty” means the driver has been relieved of all responsibilities for the vehicle and its cargo or passengers and the driver is free to pursue activities of his/her own choosing.
- “Sleeper Berth” is all time spent resting in a sleeper berth as defined in 49 CFR Section 393.76.

Carriers must maintain true and accurate records showing a driver’s hours of service. Drivers who are subject to the hours of service regulations must record their daily activities on a record of duty status (RODS), unless they meet all of the conditions for the short haul provision or are otherwise excepted/exempted.

**Electronic Logging Device (ELD) Rule:** An ELD is technology that automatically records a driver’s driving time and other hours-of-service (HOS) data. An ELD monitors a vehicle’s engine to capture data on whether the engine is running, whether the vehicle is moving, miles driven and duration of engine operation (engine hours).

As of Dec. 16, 2019, all carriers and drivers subject to the hours of service regulations must use ELDs unless exempted or excepted. Motor carriers and drivers may only use ELDs that are self-certified and registered on FMCSA’s website: <https://eld.fmcsa.dot.gov/list>. ELDs must have the capability of either telematics data transfer or local transfer.

A carrier using ELDs must ensure its drivers possess onboard a commercial motor vehicle an ELD information packet containing the following items:

- A user's manual for the driver describing how to operate the ELD;
- An instruction sheet describing the data transfer mechanisms supported by the ELD and step-by-step instructions to produce and transfer the driver's hour-of-service records to an authorized safety official;
- An instruction sheet for the driver describing ELD malfunction reporting requirements and record keeping procedures during ELD malfunctions; and
- A supply of blank driver's records of duty status (RODS) sufficient to record the driver's duty status and other related information for a minimum of 8 days.

The user's manual, instruction sheet, and malfunction instruction sheet can be in electronic form.

A driver must provide the information the ELD requires as prompted by the ELD and required by the motor carrier. A driver must manually input or verify the following information on the ELD: Commercial motor vehicle power unit number, the trailer number(s), if applicable, and shipping document number, if applicable.

**Exceptions to the ELD Rule:** The following drivers are not required to use an ELD to record their hours of service:

- Drivers who operate under the Short-Haul Provision (See Short Haul Provision in this section);
- Drivers who use paper RODS for not more than 8 days in any 30 day period;
- Drivers who conduct driveaway-towaway operations in which the vehicle being driven is the commodity being delivered; or
- Drivers of vehicles manufactured before model year 2000

## **Short Haul Provision - 150 Air-Mile Radius Driver (49 CFR Section 395.1(e))**

Drivers who operate within a 150 air-mile radius (172.6 statute miles) of their normal work reporting location, are not required to maintain RODS if all of the following requirements are met:

- The driver returns to the normal work reporting location and is released from work within 14 consecutive hours;
- A property-carrying commercial motor vehicle driver has at least 10 consecutive hours off-duty separating each 14 hours on duty;
- A passenger-carrying commercial motor vehicle driver has at least 8 consecutive hours off-duty separating each 14 hours on duty;
- A property-carrying commercial motor vehicle driver does not exceed 11 hours maximum driving time following 10 consecutive hours off-duty; or
- A passenger-carrying commercial motor vehicle driver does not exceed 10 hours maximum driving time following 8 consecutive hours off-duty; and
- The carrier maintains true and accurate time records showing the time the driver starts work, is released from work, total number of hours worked, and for drivers used for the first time or intermittently, the total time worked during the preceding seven days.

## **150 Air-Mile Radius Driver (49 CFR Section 395.1(e)(2))**

Drivers of property-carrying commercial motor vehicles that do not require a Commercial Driver's License for operation and who operate within a 150 air-mile radius (172.6 statute miles) of their normal work reporting location, are not required to maintain RODS if all of the following requirements are met:

- The driver returns to the normal work reporting location at the end of each duty tour;
- The driver may drive a maximum of 11 hours after coming on-duty following 10 or more consecutive hours off-duty;
- The driver may not drive after the 14th hour after coming on-duty 5 days a week or after the 16th hour after coming on-duty 2 days a week or since a 34-hour restart; and

- The carrier maintains true and accurate time records showing the time the driver starts work, is released from work, total number of hours worked, and for drivers used for the first time or intermittently, the total time worked during the preceding seven days.

Drivers meeting the requirements of the short haul provision are not subject to the 30 minute interruption of driving requirement in 49 CFR Section 395.3(a)(3).

**Record Retention** Hours of service records (ELD data, records of duty status and/or time sheets) and supporting documents must be maintained and retained by the carrier for a period of at least six months.

## Whistleblower

Drivers have the right to question the safety practices of their employer without the risk of losing their job or being subject to retaliation for stating a safety concern. The Occupational Safety and Health Administration's whistleblower statutes protect drivers from retaliation. For more information on the Whistleblower Protection Program, please visit US Department of Labor's Occupation Safety and Health Administrations website at <https://www.whistleblowers.gov/>.

To file a whistleblower complaint with OSHA, please see their online complaint form at [https://www.whistleblowers.gov/complaint\\_page](https://www.whistleblowers.gov/complaint_page).

