



1050 Thomas Jefferson Street, NW
Seventh Floor
Washington, DC 20007
(202) 298-1800 Phone
(202) 338-2416 Fax

MEMORANDUM

TO: David Brown

FROM: Jonathan Simon

DATE: June 22, 2017

RE: Federal Motor Carrier Safety Administration Hours-of-Service Regulations

As you know, the Federal Motor Carrier Safety Administration (FMCSA) has adopted “hours-of-service” rules that impose specific limits on the amount of time a driver can drive a commercial motor vehicle (CMV) and how many hours a driver can work before the driver is no longer allowed to drive. The maximum duty limits that apply to drivers of passenger-carrying commercial motor vehicles (CMVs)—which are in some respects different from those for property-carrying CMVs—are as follows:

- *15-hour on-duty limit.* A driver is prohibited from driving a passenger-carrying motor vehicle after having been on-duty (essentially, performing work of any kind) for 15 hours. Once a driver has been on-duty for 15 hours, the driver cannot do any more driving until the driver has taken another 8 consecutive hours off. Off-duty time taken during the day, such as a lunch break or nap, does not count toward the 15-hour limit. 49 C.F.R. § 395.5(a)(2).
- *10-hour driving limit.* A passenger-carrying CMV driver may not drive for more than 10 hours after 8 consecutive hours off-duty. Once a driver has driven a total of 10 hours, the driver must go off-duty for at least 8 consecutive hours before driving a CMV again. The 8 consecutive hours may consist of off-duty time, sleeper berth time, or a combination of the two, but there may be no on-duty or driving time during those 8 hours. 49 C.F.R. § 395.5(a)(1).

- *60/70-hour duty limit.* For companies that do not operate CMVs every day of the week, a driver is not permitted to drive after being on-duty for 60 hours (regardless of whether for the same or another employer) during any 7 consecutive days. Once a driver reaches the 60-hour limit, the driver is not permitted to drive again until the driver has dropped below 60 hours for a 7-consecutive day period. For companies that operate CMVs every day of the week, the duty limit is 70 hours over an 8-consecutive day period. 49 C.F.R. § 395.5(b).

On-Duty Time

Generally, on-duty time includes all time spent working for a motor carrier, whether paid or unpaid, and all time spent doing paid work for anyone else. More specifically, on-duty time is defined at 49 C.F.R. § 395.2 to mean “all time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work.” This includes:

- (1) all time at a terminal, facility, or other property of a motor carrier, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier;
- (2) all time inspecting, servicing, or conditioning any CMV at any time, including fueling and washing;
- (3) all driving time (i.e., “all time spent at the driving controls of a [CMV] in operation”);
- (4) all other time in or on a CMV, other than: (i) time spent resting in or on a parked vehicle; (ii) time spent resting in a sleeper berth; or (iii) up to 2 hours riding in the passenger seat of a property-carrying CMV moving on the highway immediately before or after a period of at least 8 consecutive hours in the sleeper berth;
- (5) all time loading or unloading (including supervising or assisting in loading or unloading) a CMV, remaining in readiness to operate the CMV, or in giving or receiving receipts for shipments loaded or unloaded;
- (6) all time repairing, obtaining assistance, or remaining in attendance upon a disabled CMV;
- (7) all time spent providing samples for drug/alcohol testing, including travel to and from the collection site;
- (8) all time spent performing any other work in the capacity, employ, or service of, a motor carrier; and
- (9) all time spent performing any compensated work for a person who is not a motor carrier.

Off-Duty Time

“Off-duty time” is not specifically defined in the regulations. In effect, it is any time that is not “driving time,” “on-duty time,” or “sleeper berth” as defined in the regulations. Generally, in order for a driver of a passenger-carrying CMV to be considered off-duty, the driver must be relieved of all duty and responsibility for performing work, and free to pursue activities of his or her own choosing and to leave the premises where the vehicle is parked. The driver may not be doing any work (regardless of whether paid or unpaid) for a motor carrier, or any paid work for anyone else.

Sleeper Berths

If a passenger-carrying CMV is equipped with a sleeper berth, the 10-hour and 15-hour limits may be extended under certain conditions. Under 49 C.F.R. § 395.1(g)(3), a driver who is driving a passenger-carrying CMV that is equipped with a sleeper berth may accumulate the equivalent of 8 consecutive hours of off-duty time by taking a combination of at least 8 consecutive hours off-duty and sleeper berth time, or by taking two periods of rest in the sleeper berth, provided that: (i) neither rest period is shorter than two hours; (ii) the driving time in the period immediately before and after each rest period, when added together, does not exceed 10 hours; (iii) the on-duty time in the period immediately before and after each rest period, when added together, does not include any driving time after the 15th hour; and (iv) the driver may not return to driving subject to the normal limits without taking at least 8 consecutive hours off duty, at least 8 consecutive hours in the sleeper berth, or a combination of at least 8 consecutive hours off duty and sleeper berth time. The regulations, at 49 C.F.R. § 393.76, set forth certain requirements that sleeper berths must meet in order to qualify, including, but not limited to, criteria for size, shape, access, location, and equipment (e.g., mattress, sheets and blankets).

Exceptions

Recall that there are a number of exceptions from the hours-of-service regulations. This includes an exception from all hours-of-service regulations for transportation by vehicles designed or use to transport 9 to 15 passengers, including the driver, not for direct compensation (unless the vehicle has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 10,001 pounds or more). 49 C.F.R. § 390.3(f)(6). It also includes a limited exception (logbook not required) for certain 100 air-mile radius drivers. 49 C.F.R. § 395.1(e)(1).