

Ministry of Transportation
Commercial Safety and
Compliance Branch

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Ministère des transports
Direction de la sécurité et de la conformité
en matière de transport commercial

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FROM: Jennifer Elliott
A/Director
Ministry of Transportation

DATE: December 16, 2022

SUBJECT: **Hours of Service Out of Service Declarations**

This memo is to notify you of recent changes to the *Highway Traffic Act* related to hours of service out of service declarations.

Amendments to [Section 190](#) (6.1) and (6.2) of the *Highway Traffic Act* and to [O. Reg. 555/06 \(Hours of Service\)](#) related to out of service declarations for certain hours of service violations will come into force on **January 1, 2023**.

An out of service declaration notice prohibits a driver from driving a commercial motor vehicle for a designated period.

There are no changes being made to the hours of service rules themselves (e.g., maximum driving and on-duty hours, minimum rest periods etc.).

O. Reg. 555/06 now prescribes the hours of service violations to which an out of service declaration will apply as well as the corresponding out of service period (See Appendix A: Hours of Service Violations and Corresponding Out of Service Time Periods).

The changes strengthen enforcement by providing officers with an additional tool to deal with non-compliant drivers and carriers and set a clear legal obligation under the *Highway Traffic Act* for the driver and the operator (carrier) for whom the driver works to comply with the out of service notice.

The changes are consistent with the federal Commercial Vehicle Drivers Hours of Service Regulations and with the national inspection criteria, policy and procedures currently used by Ministry of Transportation enforcement officers and police. There is little impact to the truck and bus industries since drivers and carriers have always been required to comply with an out of service condition as per Commercial Vehicle Safety Alliance (CVSA) inspection criteria.

A MTO enforcement officer or a police officer will notify a driver of the out of service condition via the Commercial Vehicle Inspection Report. The report (notice) will indicate:

- The violation (e.g., drive more than 13 hours).
- An “X” indicating that the driver is out of service.
- The period of time for which the driver is prohibited from driving a commercial motor vehicle and/or when the driver is eligible to drive again.

The driver will be required to:

- Comply with the out of service notice, and refrain from driving any commercial motor vehicle for the designated period.
- Immediately notify all carriers for whom they work of the out of service notice; and
- Within 20 days, forward a copy of the notice (Commercial Vehicle Inspection Report) to the operator (carrier) responsible for the vehicle at the time the notice was given.

The carrier (operator) will be required to:

- Ensure that the driver complies with the notice.
- Keep any notices of prohibition forwarded to you by the driver at your principal place of business for at least six months in addition to the records, records of duty status and supporting documents that you are already required to keep as prescribed by [Section 26](#) of the regulation.

Use of these out of service declarations by Ministry of Transportation enforcement officers and police against non-compliant commercial motor vehicle drivers and carriers will contribute to improved road safety for all road users. Addressing non-compliance will contribute to fairness and level competition for truck and bus competitors.

Questions? Contact cvor@ontario.ca or 1-800-387-7736 (within Ontario) or 1-416-246-7166.

Please share this information with members of your organization.
Thank you



Jennifer Elliott
Acting Director

c: Andrew Chase

Hours of Service Violations and Corresponding Out of Service Periods

Violation	Regulation 555/06 Provision	Out of Service Time Period
Daily Driving Time		
Driving more than 13 hours in a day	5 (1)	10 hours
Driving after having been on duty 14 hours in a day	5 (2)	10 hours
Daily Off Duty Time		
Driver fails to take 10 hours off duty in a day	6 (1)	Until such a time that eligibility to drive is reestablished
Mandatory Off Duty Time		
Driving more than 13 hours following eight consecutive hours off duty	9 (1)	8 hours
Driving after having been on duty for 14 hours following eight consecutive hours off duty	9 (2)	8 hours
Driving after 16 hours of elapsed time between mandatory periods of off duty	9 (3)	8 hours
Off Duty Requirements		
Driver fails to take 24 hours off duty in the previous 14 days	13 (1)	24 hours
Driving after being on duty more than 70 hours in seven consecutive days	13 (2)	Until such a time that eligibility to drive is reestablished
Driving after being on duty more than 120 hours in 14 consecutive days	13 (3)	Until such a time that eligibility to drive is reestablished
Driving after accumulating 70 hours on duty in a 14-day cycle without taking 24 hours off duty	13 (4)	Until such a time that eligibility to drive is reestablished

Hours of Service Violations and Corresponding Out of Service Periods

Violation	Regulation 555/06 Provision	Out of Service Time Period
Production of Records to Inspector		
Driver is unable or refuses to produce records of duty status for the current trip or records of duty status for the previous 14 consecutive days	24 (1)	Until the driver can produce compliant records of duty status
Integrity of Records of Duty Status		
<p>There is evidence that the driver completed more than one record of duty status for the day, entered inaccurate or false information</p> <p>Driver falsifies, mutilates or defaces a record of duty status</p>	28 (1)	72 hours