

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

ADOPTED TEXT

Title 13, California Code of Regulations, Chapter 6.5. Motor Carrier Safety Article 1. Definitions and General Provisions

§1201. Definitions.

The following terms are defined for purposes of this chapter:

(a) ***Adverse driving conditions.*** Snow, sleet, fog, other adverse weather conditions, a highway covered with snow or ice, or unusual road and traffic conditions, none of which were apparent on the basis of information known to the person dispatching the run at the time it was begun.

(b) ***Bus.*** Every motor vehicle defined in Vehicle Code Section 233 and every school bus, school pupil activity bus, youth bus, and farm labor bus. Bus “type” is determined as follows:

(1) Type 1. Designed for carrying more than 16 passengers and the driver.

(2) Type 2. Designed for carrying not more than 16 passengers and the driver; or manufactured on or after April 1, 1977, having a manufacturer’s gross vehicle weight rating of 10,000 lb or less, and designed for carrying not more than 20 passengers and the driver.

(c) ***Co-driver.*** A driver teamed with another driver for the purpose of alternating driving duties during a trip. While one drives, the other ordinarily rests in a sleeper berth. Both driver and co-driver maintain separate driver’s records of duty status pursuant to Section 1213 of this title.

(d) ***Commercial Motor Vehicle.*** Any vehicle or combination of vehicles as defined in Vehicle Code Section 15210(b)(1).

(e) ***Commissioner.*** Commissioner of the Department of the California Highway Patrol.

(f) ***Department.*** Department of the California Highway Patrol.

(g) ***Drive or Operate.*** These terms include all time spent at the driving controls of a motor vehicle in operation.

(h) Driver. Any person, including the owner-driver, who drives any motor vehicle subject to this chapter, and any person, whether driving for compensation or not, who is under the direct control of and drives for a motor carrier.

(i) Driver-salesperson. Any employee who is employed solely as such by a private carrier of property by motor vehicle, who is engaged both in selling goods, services, or the use of goods, and in delivering by commercial motor vehicle the goods sold or provided or upon which the services are performed, who does so entirely within a radius of 100 miles of the point at which he/she/the driver reports for duty, who devotes not more than 50 percent of his/her hours on duty to driving time. The term “selling goods” for purposes of this section shall include in all cases solicitation or obtaining of reorders or new accounts, and may also include other selling or merchandising activities designed to retain the customer or to increase the sale of goods or services, in addition to solicitation or obtaining of reorders or new accounts.

(j) Driving Time. Means all time spent at the driving controls of a commercial motor vehicle in operation.

(k) Eight Consecutive Days. The period of 8 consecutive days beginning on any day at the time designated by the motor carrier for a 24-hour period.

(l) FMVSS. Federal Motor Vehicle Safety Standard(s) in effect at the time the vehicle or component is manufactured.

(m) GPPV. General Public Paratransit Vehicle. Any motor vehicle specified in Vehicle Code Section 336.

(n) Interstate Driver. Interstate driver means the driver of a vehicle engaged in interstate commerce as defined in 49 CFR, Section 390.5, as those regulations now exist or are hereafter amended. ~~As used in Sections 1212, 1212.5, and 1213, "interstate driver" includes all drivers who transport hazardous substances or hazardous wastes as defined in 49 CFR 171.8, as published October 1, 2000.~~

(o) Intrastate Driver. Intrastate driver means a driver engaged in trade, traffic, or transportation not described in the term “interstate driver.” ~~The driver of a vehicle not subject to Federal Motor Carrier Safety Regulations and not transporting hazardous substances or hazardous wastes as defined in 49 CFR 171.8, as published October 1, 2000.~~

(p) Manufacturer of the Chassis. The original manufacturer of the chassis or the manufacturer of any integral type of school bus.

(q) **Motor Carrier or Carrier.** The registered owner, lessee, licensee, school district superintendent, or bailee of any vehicle who operates or directs the operations of any such vehicle on either a for-hire or not-for-hire basis. The terms “motor carrier” and “carrier” may be used interchangeably in this chapter.

(r) **Multiple Stops.** All stops made in any one village, town, or city may be computed as one.

(s) **On-duty Time.** All time from the time a driver begins to work, or is required to be in readiness to work, until the time he/she/the driver is relieved from work and all responsibility for performing work. On-duty time shall include:

(1) 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 the motor carrier;

(2) All time inspecting, servicing, or conditioning any vehicle;

(3) All “driving time” as defined in this section;

(4) All time, other than driving time, in or upon any motor vehicle, except time spent resting in a sleeper berth as defined by the term “sleeper berth” in this section;

(5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;

(6) All time spent complying with driver requirements relating to accidents;

(7) All time repairing, obtaining assistance, or remaining in attendance in or about a disabled vehicle;

(8) All time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with the random, reasonable suspicion, post accident, or follow-up testing required by 49 CFR Part 382, when directed by a motor carrier;

(9) Performing any other work in the capacity of, or in the employ or service of, a common, contract or private motor carrier; and

(10) Performing any compensated work for any nonmotor carrier entity.

(t) **Pupil Transportation.** The transportation of any pupil enrolled in a public or private school at or below the twelfth-grade level to or from school in a school bus, to or from a school activity in a school bus or SPAB, from a school to a nonschool-related activity within 25 miles

of the school in a youth bus, or the transportation of any student enrolled in a community college to or from the community college or a college activity, in a vehicle designated as a school bus by resolution of the governing board pursuant to Vehicle Code Section 545(g), and certified by the Department.

(u) ***SPAB--School Pupil Activity Bus.*** Any motor vehicle specified in Vehicle Code Section 546.

(v) ***School District Superintendent.*** This term or a similar phrase includes county superintendent of schools and the equivalent official of a private or public school that does not have a school district superintendent.

(w) ***Seven Consecutive Days.*** The period of 7 consecutive days beginning on any day at the time designated by the motor carrier for a 24-hour period.

(x) ***Sleeper Berth.*** A berth conforming to the requirements of Section 1265.

(y) ***Supporting Documents.*** Supporting documents are the records of a motor carrier which are maintained in the ordinary course of business which may be used to verify the information recorded on the drivers' records of duty status. Examples are bills of lading, carrier pros, freight bills, dispatch records, driver call-in records, gate record receipts, weight scale tickets, fuel receipts, fuel billing statements, toll receipts, international registration plan receipts, international fuel tax agreement receipts, trip permits, port of entry receipts, cash advance receipts, delivery receipts, lumper receipts, interchange and inspection reports, lessor settlement sheets, over/short and damage reports, agricultural inspection reports, Commercial Vehicle Safety Alliance reports, accident reports, telephone billing statements, credit card receipts, driver fax reports, on-board computer reports, border crossing reports, custom declarations, traffic citations, overweight/oversize reports and citations, and/or other documents directly related to the motor carrier's operation, which are retained by the motor carrier in connection with the operation of its transportation business. Supporting documents may include other documents which the motor carrier maintains and which can be used to verify information on drivers' records of duty status.

(z) ***Trailer-bus.*** A trailer or semi-trailer designed or used for the transportation of more than 10 persons.

(aa) ***Truck.*** All motortrucks and truck tractors specified in Vehicle Code Section 34500.

(bb) *Twenty-four Hour Period.* Any 24-consecutive-hour period beginning at the time designated by the motor carrier for the terminal from which the driver is normally dispatched.

(cc) *Wheelchair.* A specially constructed device on wheels used exclusively to transport a physically handicapped person except infant seat devices, strollers, and gurneys.

(dd) *Wheelchair School Bus.* Any school bus that has been designed or modified in accordance with Section 1293 of this title to transport pupils confined to wheelchairs.

(ee) *Work Period.* The duration between the time a driver first reports for duty and the time a driver is completely relieved of all duties and is permitted to go off duty for eight consecutive hours. The terms “work period” and “tour of duty” have the same meaning.

NOTE: Authority cited: Sections 31401, 34501, 34501.5 and 34508, 34508, and 34520 Vehicle Code; and Section 39831, Education Code. Reference: Sections 336, 546, 31401, 34501, 34501.2, 34501.5 and 34508, 34508, and 34520 Vehicle Code; and Section 39831, Education Code.

Article 3. General Driving Requirements

§ 1212 Driver Hours Of Service.

(a) *General.* The rules in this section ~~and Sections 1212.5 and 1213, unless otherwise specified,~~ apply to all intrastate motor carriers and drivers, ~~except as provided in paragraphs (b) through (l) of this section.~~

(b) *Adverse driving conditions.*

(1) A driver who encounters adverse driving conditions, as defined in Section 1201, and cannot, because of those conditions, safely complete the run within the maximum driving time permitted by Section 1212.5, may drive and be permitted or required to drive for not more than 2 additional hours in order to complete that run or to reach a place offering safety for vehicle occupants and security for the vehicle and its cargo. However, that driver may not drive or be permitted to drive:

~~(A) Interstate drivers: for more than 12 hours in the aggregate following eight consecutive hours off duty; or~~

~~(B)(A) Intrastate drivers: for m~~More than 14~~12~~ hours in the aggregate for bus drivers and 14 hours for truck drivers following eight consecutive hours off duty for bus drivers and ten consecutive hours off duty for truck drivers; or

~~(C)~~(B) After ~~he/she~~the driver has been on duty 15 hours following eight consecutive hours off duty for bus drivers and after the end of the 16th hour after coming on duty, following ten consecutive hours off duty, for truck drivers.

(2) Emergency conditions. In the event of a traffic accident, medical emergency, or disaster, a driver may complete his/her run without being in violation of the provisions of these regulations, if such run reasonably could have been completed absent the emergency.

(3) Relief Point. Bus drivers (other than school bus and school pupil activity bus drivers) in urban and suburban service may exceed their regulated hours in order to reach a regularly scheduled relief point, providing the additional time does not exceed one hour.

(c) **Driver-salesperson.** The provisions of Section 1212.5(b) shall not apply to any driver-salesperson whose total driving time does not exceed 40 hours in any period of seven consecutive days.

(d) **Oilfield operations.** (1) In the instance of drivers of commercial motor vehicles used exclusively in the transportation of oilfield equipment, including the stringing and picking up of pipe used in pipelines, and servicing of the field operations of the natural gas and oil industry, any period of eight consecutive days may end with the beginning of any off-duty period of 24 or more successive hours.

(2) In the case of specially trained drivers of motor vehicles which are specially constructed to service oil wells, on-duty time shall not include waiting time at a natural gas or oil well site; provided, that all such time shall be fully and accurately accounted for in records to be maintained by the motor carrier. Such records shall be made available upon request of any authorized employee of the Department.

(e) **100 air-mile radius driver.** A driver is exempt from the requirements of Section 1213 if:

(1) The driver operates within a 100 air-mile radius of the normal work reporting location;

(2) The driver, except a driver salesperson, returns to the work reporting location and is released from work within 12 consecutive hours;

(3) The driver of a school bus, school pupil activity bus, youth bus, or farm labor vehicle returns to the work reporting location and is released from work ~~within 16 consecutive hours~~ before the end of the 16th hour after coming on duty;

(4) At least eight consecutive hours off duty for bus drivers and ten consecutive hours off duty for truck drivers, separate each 12 hours on duty; and

~~(5) The interstate driver does not exceed ten hours maximum driving time following eight consecutive hours off duty; and~~

~~(6)~~(5) The motor carrier that employs the driver maintains and retains for a period of six months accurate and true time records showing:

(A) The time the driver reports for duty each day;

(B) The total number of hours the driver is on duty each day;

(C) The time the driver is released from duty each day; and

(D) The total time for the preceding seven days in accordance with Section 1213(k)(2) for drivers used for the first time or intermittently.

~~(7)~~(6) The permanent record produced by a time-recording device such as a “tachograph” (Figure 1) may be used as a driver’s record for any tour of duty for an intrastate driver that does not exceed 15 consecutive hours or the 100 air-mile radius, provided the intrastate bus driver does not exceed ten hours and the intrastate truck driver does not exceed 12 hours maximum driving time following eight consecutive hours off duty for bus drivers and ten consecutive hours off duty for truck drivers, and the driver enters:

(A) The time the driver reports for duty each day;

(B) The previous day’s time of going off duty; and

(C) The data required by Section 1213(e).

(f) *Retail store deliveries.* The provisions of Section 1212.5(a) ~~and (b)~~ shall not apply with respect to drivers of commercial motor vehicles engaged solely in making local deliveries from retail stores and/or retail catalog businesses to the ultimate consumer, when driving solely within a 100 air-mile radius of the driver’s work-reporting location, during the period from December 10 to December 25, both inclusive, of each year.

(Figure 1)

Figure 1. Tachograph Chart and Analysis

~~(g) *Sleeper berths.* (1) Drivers using sleeper berth equipment constructed and equipped in compliance with Section 1265 or who are off duty at a natural gas or oil well location, may accumulate the required eight consecutive hours off duty, as required by Section 1212.5, resting in a sleeper berth in two separate periods totaling eight hours, neither period to be less than two~~

hours, or resting while off duty in other sleeping accommodations at a natural gas or oil well location.

(2) When two sleeper berth periods are used to accumulate the required eight consecutive hours off duty as permitted in this section, all driving time accumulated between the first and second sleeper berth periods shall be subtracted from the ten or 12 hours, as applicable, of driving time that the driver may drive in the new tour of duty that commences following the second sleeper berth period, and all on-duty and driving time between the first and second sleeper berth periods shall count toward the new 15-hour on-duty limit.

(g) *Sleeper berths.* (1) Property-carrying motor vehicles. A driver who is driving a truck or truck tractor that is equipped with a sleeper berth, as defined in Section ~~1256~~1265.

(A) Must, before driving, accumulate;

(i) At least ten consecutive hours off duty;

(ii) At least ten consecutive hours of sleeper-berth time;

(iii) A combination of consecutive sleeper-berth and off-duty time amounting to at least ten hours; or

(iv) The equivalent of at least ten consecutive hours off duty if the driver does not comply with paragraph (g)(1)(A)(i), (ii), or (iii) of this section;

(B) May not drive more than 12 hours following one of the ten-hour off-duty periods specified in paragraph (g)(1)(A)(i) through (iv) of this section; and

(C) May not drive after the 16th hour after coming on duty following one of the ten-hour off-duty periods specified in paragraph (g)(1)(A)(i) through (iv) of this section; and

(D) Must exclude from the calculation of the 16-hour limit any sleeper-berth period of at least eight but less than ten consecutive hours.

(2) *Specific requirements.* The following rules apply in determining compliance with paragraph (g)(1) of this section:

(A) The term “equivalent of at least ten consecutive hours off duty” means a period of:

(i) At least eight but less than ten consecutive hours in a sleeper berth, and

(ii) A separate period of at least two but less than ten consecutive hours either in the sleeper berth or off duty, or any combination thereof.

(B) Calculation of the 12-hour driving limit includes all driving time; compliance must be re-calculated from the end of the first of the two periods used to comply with paragraph (g)(2)(A) of this section.

(C) Calculation of the 16-hour limit includes all time except any sleeper-berth period of at least eight but less than ten consecutive hours; compliance must be re-calculated from the end of the first of the two periods used to comply with the requirements of paragraph (g)(2)(A) of this section.

(3) Specially trained driver of a specially constructed oil well servicing commercial motor vehicle at a natural gas or oil well location. A specially trained driver who operates a commercial motor vehicle specially constructed to service natural gas or oil wells that is equipped with a sleeper berth, as defined in Section 1265, or who is off duty at a natural gas or oil well location, may accumulate the equivalent of ten consecutive hours off-duty time by taking a combination of at least ten consecutive hours of off-duty time, sleeper-berth time, or time in other sleeping accommodations at a natural gas or oil well location; or by taking two periods of rest in a sleeper berth, or other sleeping accommodation at a natural gas or oil well location, providing:

(A) Neither rest period is shorter than two hours;

(B) The driving time in the period immediately before and after each rest period, when added together, does not exceed 12 hours;

(C) The driver does not drive after the 16th hour after coming on duty following ten hours off duty, where the 16th hour is calculated:

(i) By excluding any sleeper berth or other sleeping accommodation period of at least two hours which, when added to a subsequent sleeper berth or other sleeping accommodation period, totals at least ten hours, and

(ii) By including all on-duty time, all off-duty time not spent in the sleeper berth or other sleeping accommodations, all such periods of less than two hours, and any period not described in paragraph (g)(2)(A) of this section; and

(D) The driver may not return to driving subject to the normal limits under Section 1212.5 without taking at least ten consecutive hours off duty, at least ten consecutive hours in the sleeper berth or other sleeping accommodations, or a combination of at least ten consecutive hours off duty, sleeper-berth time, or time in other sleeping accommodations.

(4) Passenger-carrying commercial motor vehicles. A bus driver who is driving a bus that is equipped with a sleeper berth, as defined in Section 1265, may accumulate the equivalent of eight consecutive hours of off-duty time by taking a combination of at least eight consecutive hours off-duty and sleeper berth time; or by taking two periods of rest in the sleeper berth, providing:

(A) Neither rest period is shorter than two hours;

(B) The driving time in the period immediately before and after each rest period, when added together, does not exceed ten hours;

(C) 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

(D) The driver may not return to driving subject to the normal limits under Section 1212.5 without taking at least eight consecutive hours off duty, at least eight consecutive hours in the sleeper berth, or a combination of at least eight consecutive hours off duty and sleeper berth time.

(h) Travel time. When a driver at the direction of the motor carrier is traveling, but not driving or assuming any other responsibility to the carrier, such time shall be counted as on-duty time unless the driver is afforded at least eight consecutive hours off duty for bus drivers and ten consecutive hours off duty for truck drivers, when arriving at destination, in which case ~~he/she~~ the driver shall be considered off duty for the entire period.

(i) Utility service vehicles. An intrastate driver employed by an electrical corporation, as defined in Section 218 of the Public Utilities Code, a gas corporation, as defined in Section 222 of that code, a telephone corporation, as defined in Section 234 of that code, a water corporation, as defined in Section 241 of that code, or a public water district, as defined in Section 20200 of the Water Code:

(1) May be permitted or required to drive more than the number of hours specified in Section 1212.5 while operating a public utility or public water district vehicle during the emergency restoration of service and related operations.

(2) Upon termination of the emergency and release of a driver from duty, the total on-duty hours accumulated by the driver during the most recent eight consecutive days shall be considered reset to zero upon the driver's completion of an off-duty period of 24 or more consecutive hours.

(j) *Fire fighters.* For drivers of vehicles owned and operated by any forestry or fire department of any public agency or fire department organized as provided in the Health and Safety Code:

(1) Section 1212.5 does not apply while involved in emergency and related operations.

(2) Upon termination of the emergency and release of a driver from duty, the total on-duty hours accumulated by the driver during the most recent eight consecutive days shall be considered reset to zero upon the driver's completion of an off-duty period of 24 or more consecutive hours.

(k) *Farm products.* (1) A driver, when transporting farm products from the field to the first point of processing or packing, shall not drive for any period after having been on duty 16 hours or more following eight consecutive hours off duty and shall not drive for any period after having been on duty for 112 hours in any consecutive eight-day period, except that a driver transporting special situation farm products from the field to the first point of processing or packing, or transporting livestock from pasture to pasture, may be permitted, during one period of not more than 28 consecutive days or a combination of two periods totaling not more than 28 days in a calendar year, to drive for not more than 12 hours during any work-day of not more than 16 hours. A driver who thereby exceeds the driving time limits specified in Section 1212.5(b)(2) shall maintain a driver's record of duty status, and shall keep a duplicate copy in his or her possession when driving a vehicle subject to this chapter. These records shall be presented immediately upon request by any authorized employee of the department, or any police officer or deputy sheriff.

(2) Upon the request of the Director of Food and Agriculture, the commissioner may, for good cause, temporarily waive the maximum on-duty time limits applicable to any eight-day period when an emergency exists due to inclement weather, natural disaster, or an adverse economic condition that threatens to disrupt the orderly movement of farm products during harvest for the duration of the emergency. For purposes of this paragraph, an emergency does not include a strike or labor dispute.

(3) For purposes of this subdivision, the following terms have the following meanings:

(A) "Farm Products" means every agricultural, horticultural, viticultural, or vegetable product of the soil, honey and beeswax, oilseeds, poultry, livestock, milk, or timber.

(B) “First point of processing or packing” means a location where farm products are dried, canned, extracted, fermented, distilled, frozen, ginned, eviscerated, pasteurized, packed, packaged, bottled, conditioned, or otherwise manufactured, processed, or preserved for distribution in wholesale or resale markets.

(C) “Special situation farm products” means fruit, tomatoes, sugar beets, grains, wine grapes, grape concentrate, cotton, or nuts.

(I) **Law enforcement.** Sections 1212.5 and 1213 do not apply to intrastate drivers employed by a law enforcement agency during an emergency or when restoring the public peace.

(m) **Construction Materials and Equipment.** In the instance of a driver of a vehicle who is used primarily in the transportation of construction materials and equipment, the total on-duty hours accumulated by the driver during the most recent eight consecutive days shall be considered reset to zero upon the driver’s completion of an off-duty period of 24 or more consecutive hours.

(1) Transportation of “construction materials and equipment” means the transportation of construction and pavement materials, construction equipment, and construction maintenance vehicles, by a driver to or from an active construction site (a construction site between mobilization of equipment and materials to the site to the final completion of the construction project), within a 50-mile radius of the normal work reporting location of the driver.

(2) This paragraph does not apply to the transportation of materials found by the Secretary of the United States Department of Transportation to be hazardous under Title 49, Unites States Code, Section 5103, in an amount requiring placarding under regulations issued in order to carry out that section.

(n) **Limited Applicability.** The exceptions provided in subsections (i), (j), and (k), are not available to the driver of a vehicle transporting hazardous substances or hazardous waste, as those terms are defined in Section 171.8 of Title 49, Code of Federal Regulations, as those regulations exist or are hereafter amended.

NOTE: Authority cited: Sections 31401, 34501, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 545, 31401, 34501, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

§ 1212.5 Maximum Driving and On-Duty Time.

(a) ~~General~~ **Maximum driving time.** Except as provided in Sections 1212(b)(1), 1212(f), 1212(i), 1212(j), ~~and 1212(k), and 1212(l),~~ no motor carrier shall permit or require any driver used by it to drive nor shall any such driver drive:

(1) ~~Interstate drivers, i~~Intrastate bus drivers, and drivers of tank vehicles with a capacity of more than 500 gallons transporting flammable liquid:

(A) More than ten hours following eight consecutive hours off duty for bus drivers and ten consecutive hours off duty for truck drivers; or

(B) For any period after having been on duty 15 hours following eight consecutive hours off duty for bus drivers and after the end of the 16th hour after coming on duty following ten consecutive hours off duty for truck drivers.

(2) Intrastate Truck Drivers:

(A) More than 12 cumulative hours following ~~eight~~ten consecutive hours off duty; or

(B) For any period ~~after having been on duty 15 hours~~ after the end of the 16th hour after coming on duty following ~~eight~~ten consecutive hours off duty.

(3) School Bus, School Pupil Activity Bus, Youth Bus and Farm Labor Vehicle Drivers:

(A) More than ten hours within a work period following eight consecutive hours off duty; or

(B) ~~After 16 consecutive hours have elapsed since first reporting for duty~~ the end of the 16th hour after coming on duty following eight consecutive hours off duty.

~~(b)(4)~~ **Maximum on-duty time.** No motor carrier shall permit or require a driver, regardless of the number of motor carriers using the driver's services, to drive nor shall any driver drive, except as provided in Section 1212(k), for any period after: having been on duty for 80 hours in any consecutive eight days.

(5) For truck drivers listed in subsections (1) and (2), any period of eight consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours.

~~(1) Interstate drivers:~~

~~(A) Having been on duty 60 hours in any seven consecutive days if the employing motor carrier does not operate motor vehicles every day of the week; or~~

~~(B) Having been on duty 70 hours in any period of eight consecutive days if the employing motor carrier operates motor vehicles every day of the week.~~

~~(2) Intrastate drivers, except as provided in Section 1212(k), having been on duty for 80 hours in any consecutive eight days.~~

(b) *Interstate driver.* Motor carriers and drivers engaged in interstate commerce and the driver of a vehicle transporting hazardous substances or hazardous waste, as those terms are defined in Section 171.8 of Title 49, Code of Federal Regulations, shall comply with the federal driver hours-of-service regulations contained in Title 49, Code of Federal Regulations, Part 395, as those regulations now exist or are hereafter amended.

(c) *Referenced regulations.* Copies of Title 49, Code of Federal Regulations, can be obtained from:

SUPERINTENDENT OF DOCUMENTS

UNITED STATES GOVERNMENT PRINTING OFFICE

PO BOX 371954

PITTSBURG, PA 15250-7954

(202) 512-1800

Internet Purchases: http://www.access.gpo.gov/su_docs/sale.html

NOTE: Authority cited: Sections 31401, 34501, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 545, 31401, 34003, 34501, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

§ 1213 Driver's Record of Duty Status.

(a) *Carrier responsibility.* Except as provided in subsection (b), every motor carrier shall require every driver used by the motor carrier to record his/her duty status for each 24-hour period using the methods prescribed in either paragraphs (a)(1) or (2) of this section.

(1) Every driver shall record his/her duty status, in duplicate, for each 24-hour period. The duty status time shall be recorded on a specified grid, as shown in paragraph (h) of this section. The grid and the requirements of paragraph (e) of this section may be combined with any company forms. The previously approved format of the Daily Log, Form MCS-59 or the Multiday Log, MCS-139 and 139A, which meets the requirements of this section, may continue to be used.

(2) Every driver shall record his/her duty status by using an automatic on-board recording device that meets the requirements of Section 1213.2. The requirements of Section 1213 shall not apply, except paragraphs (f) and (l).

(3) The record shall be presented for inspection immediately upon request by any authorized employee of the department, or any regularly employed and salaried police officer or deputy sheriff.

(4) Interstate drivers, subject to and in compliance with the record requirements of Sections 395.8 or 395.15, 49 CFR, shall be deemed in compliance with this section.

(b) *Exceptions.* A driver's record of duty status is not required for drivers of the following vehicles, provided documentation of their total days worked and time of reporting on and off duty each day, is maintained by the motor carrier for 6 months:

(1) Vehicles owned and operated by any forestry or fire department of any public agency or fire department organized as provided in the Health and Safety Code.

(2) Vehicles, owned and operated by local law enforcement agencies, which are engaged in the transportation of inmates or prisoners within the county where the agency is located.

(c) *Duty status.* The duty status shall be recorded as follows:

(1) "Off duty" or "OFF."

(2) "Sleeper berth" or "SB" (only if a sleeper berth used).

(3) "Driving" or "D."

(4) "On-duty not driving" or "ON."

(d) *Location of change of duty status.* For each change of duty status (e.g., the place of reporting for work, starting to drive, on-duty not driving and where released from work), the name of the city, town, or village, with State abbreviation, shall be recorded.

NOTE: If a change of duty status occurs at a location other than a city, town, or village, show one of the following: (1) The highway number and nearest milepost followed by the name of the nearest city, town, or village and State abbreviation, (2) the highway number and the name of the service plaza followed by the name of the nearest city, town, or village and State abbreviation, or (3) the highway numbers of the nearest two intersecting roadways followed by the name of the nearest city, town, or village and State abbreviation.

(e) *Required information.* The following information must be included on the form in addition to the grid:

(1) Date;

(2) Total miles driving today;

(3) Bus, truck or tractor, and trailer number;

- (4) Name of carrier;
- (5) Driver's signature/certification;
- (6) 24-hour period starting time (e.g., midnight, 9:00 a.m., noon, 3:00 p.m.);
- (7) Main office address;
- (8) Remarks;
- (9) Name of co-driver;
- (10) Total hours (far right edge of grid);
- (11) Shipping document number(s), or name of shipper and commodity;

(f) *Incomplete or false records.* No motor carrier shall allow or require, and no driver shall prepare or submit, a record of duty status which is not true and accurate. Failure to complete the record of duty activities of this section or Section 1213.2, failure to preserve a record of such duty activities, or making of false reports in connection with such duty activities shall make the driver and/or the carrier liable to prosecution.

(g) *Driver responsibility.* The driver's activities shall be recorded in accordance with the following provisions:

- (1) Entries to be current. Drivers shall keep their record of duty status current to the time shown for the last change of duty status.
- (2) Entries made by driver only. All entries relating to driver's duty status must be legible and in the driver's own handwriting.
- (3) Date. The month, day and year for the beginning of each 24-hour period shall be shown on the form containing the driver's duty status record.
- (4) Total mileage driven. Total mileage driven during the 24-hour period shall be recorded on the form containing the driver's duty status record.
- (5) Vehicle identification. The carrier's vehicle number or State and license number of each bus, truck, truck tractor and trailer operated during that 24-hour period shall be shown on the form containing the driver's duty status record.
- (6) Name of carrier. The name(s) of the motor carrier(s) for which work is performed shall be shown on the form containing the driver's duty status record. When work is performed for more than one motor carrier during the same 24-hour period, the beginning and finishing time, showing a.m. or p.m., worked for each carrier shall be shown after each carrier's name. Drivers of leased vehicles shall show the name of the motor carrier performing the transportation.

(7) Signature/certification. The driver shall certify to the correctness of all entries by signing the form containing the driver's duty status record with his/her legal name or name of record. The driver's signature certifies that all entries required by this section made by the driver are true and correct.

(8) Time base to be used. (A) The driver's duty status record shall be prepared, maintained, and submitted using the time standard in effect at the driver's home terminal, for a 24-hour period beginning with the time specified by the motor carrier for that driver's home terminal.

(B) The term "seven or eight consecutive days" means the seven or eight consecutive 24-hour periods as designated by the carrier for the driver's home terminal.

(C) The 24-hour period starting time must be identified on the driver's duty status record. One-hour increments must appear on the graph, be identified, and preprinted. The words "Midnight" and "Noon" must appear above or beside the appropriate one-hour increment.

(9) Main office address. The motor carrier's main office address shall be shown on the form containing the driver's duty status record.

(10) Recording days off duty. Two or more consecutive 24-hour periods off duty may be recorded on one duty status record.

(11) Total hours. The total hours in each duty status: off duty other than in a sleeper berth; off duty in a sleeper berth; driving, and on duty not driving, shall be entered to the right of the grid. The total of such entries shall equal 24 hours.

(12) Shipping document number(s), or name of shipper and commodity, shall be shown on the driver's record of duty status.

(h) **Graph grid.** The following graph grid (Figure 2) must be incorporated into a motor carrier recordkeeping system which must also contain the information required in paragraph (e) of this section.

(figure 2)

Figure 2. Graph Grid (Horizontally and Vertically)

(i) **Graph grid preparation.** The graph grid may be used horizontally or vertically and shall be completed as follows:

(1) Off duty. Except for time spent resting in a sleeper berth, a continuous line shall be drawn between the appropriate time markers to record the period(s) of time when the driver is

not on duty, is not required to be in readiness to work, or is not under any responsibility for performing work.

(2) Sleeper berth. A continuous line shall be drawn between the appropriate time markers to record the period(s) of time off duty resting in a sleeper berth, as defined in Section 1201. (If a non-sleeper berth operation, sleeper berth need not be shown on the grid.)

(3) Driving. A continuous line shall be drawn between the appropriate time markers to record the period(s) of time on duty driving a motor vehicle, as “drive or operate” is defined in Section 1201.

(4) On duty not driving. A continuous line shall be drawn between the appropriate time markers to record the period(s) of time on duty not driving as specified in Section 1201(q).

(5) Location-remarks. The name of the city, town, or village, with State abbreviation where each change of duty status occurs shall be recorded.

NOTE: If a change of duty status occurs at a location other than a city, town, or village, show one of the following: (1) The highway number and nearest milepost followed by the name of the nearest city, town, or village and State abbreviation, (2) the highway number and the name of the service plaza followed by the name of the nearest city, town, or village and State abbreviation, or (3) the highway numbers of the nearest two intersecting roadways followed by the name of the nearest city, town, or village and State abbreviation.

(j) *Filing driver’s record of duty status.* Each day, the driver shall submit or forward the original driver’s record of duty status to the regular employing motor carrier following the completion of the form. Drivers who do not return to the home terminal each day may submit their original records of duty status upon their first return to the home terminal, provided the interval does not exceed 13 days. ~~Interstate drivers, subject to and in compliance with the record requirements of Sections 395.8 or 395.15, 49 CFR, shall be deemed in compliance with this section.~~

(k) *Drivers used by more than one motor carrier.* (1) When the services of a driver are used by more than one motor carrier during any 24-hour period in effect at the driver’s home terminal, the driver shall submit a copy of the record of duty status to each motor carrier. The record shall include:

(A) All duty time for the entire 24-hour period;

(B) The name of each motor carrier served by the driver during the that period; and

(C) The beginning and finishing time, including a.m., or p.m., worked for each carrier.

(2) Motor carriers, when using a driver for the first time or intermittently, shall obtain from the driver a signed statement giving the total time on duty during the immediately preceding 7 days and the time at which the driver was last relieved from duty prior to beginning work for the motor carriers.

(l) Retention of driver's record of duty status. The driver shall retain the duplicate copy of each record of duty status for the current day and the previous 7 consecutive days which shall be in his/her possession and available for inspection while on duty. The records shall be presented for inspection immediately upon request by any authorized employee of the department, or any regularly employed and salaried police officer or deputy sheriff.

NOTE: Driver's Record of Duty Status. The graph grid, when incorporated as part of any form used by a motor carrier, must be of sufficient size to be legible.

The following executed specimen grid (Figure 3) illustrates how a driver's duty status should be recorded for a trip from Richmond, Virginia, to Newark, New Jersey. The grid reflects the midnight to midnight 24-hour period. The driver in this instance reported for duty at the motor carrier's terminal. The driver reported for work at 6 a.m., helped load, checked with dispatch, made a pretrip inspection, and performed other duties until 7:30 a.m. when the driver began driving. At 9 a.m. the driver had a minor accident in Fredericksburg, Virginia, and spent one half hour handling details with the local police. The driver arrived at the company's Baltimore, Maryland, terminal at noon and went to lunch while minor repairs were made to the tractor. At 1 p.m. the driver resumed the trip and made a delivery in Philadelphia, Pennsylvania, between 3 p.m. and 3:30 p.m. at which time the driver started driving again. Upon arrival at Cherry Hill, New Jersey, at 4 p.m., the driver entered the sleeper berth for a rest break until 5:45 p.m. at which time the driver resumed driving again. At 7 p.m. the driver arrived at the company's terminal in Newark, New Jersey. Between 7 p.m. and 8 p.m. the driver prepared the required paperwork including completing the driver's record of duty status, vehicle condition report, insurance report for the Fredericksburg, Virginia accident, checked for the next day's dispatch, etc. At 8 p.m., the driver went off duty.

(Figure 3)

Figure 3. Driver's Record

NOTE: Authority cited: Sections 31401, 34501, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 545, 31401, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

Article 6. Carrier Requirements

§1234. Required Records for Motor Carriers.

The following records are required:

(a) ***Driver's Record.*** Motor carriers shall require each driver and each co-driver to keep a driver's record pursuant to Section 1213. Motor carriers shall keep the original copies of all drivers' records with any supporting documents, as defined in Section 1201(~~w~~y), for 6 months. Drivers' records of duty status and all supporting documents shall be made available for inspection immediately upon request by an authorized employee of the department. Drivers' records and/or supporting documents not readily available or accessible shall be made available within 3 business days.

(b) ***Driver's Authorized Vehicles.*** Motor carriers shall maintain a record of the different types of vehicles and vehicle combinations each driver is capable of driving as specified in Section 1229.

(c) ***Driver's Records.*** School bus, SPAB, youth bus, farm labor vehicle, and GPPV carriers shall maintain a record of required documents for each driver they employ. The carrier shall notify each driver of the expiration date of the documents listed in (1) through (4), and the carrier shall ensure each document is renewed prior to expiration. The record shall contain the following data:

(1) Driver's license class, number, restrictions and expiration date.

(2) Driver's certificate restrictions, expiration date, certificate issuance date and driver's date of birth.

(3) Date medical certificate expires.

(4) Expiration date of driver's first aid certificate, license as a physician and surgeon, osteopath, or registered nurse, or certificate as a physician's assistant or emergency medical

technician when such certificate or license is used to obtain a waiver of the first aid examination pursuant to Vehicle Code Section 12522.

(5) Date and number of hours of training specified in Education Code Sections 40080-40090 or Vehicle Code Section 12523 since issuance of the driver's current certificate.

(d) ***Mileage Records.*** School bus, SPAB, and youth bus carriers shall keep records of the mileage each bus travels during the fiscal year (July 1 through June 30). These records shall be retained for the current fiscal year plus the previous year.

(e) ***Daily Vehicle Inspection Reports.*** Motor carriers shall require drivers to submit a documented daily vehicle inspection report pursuant to Section 1215(c). Reports shall be carefully examined, defects likely to affect the safe operation of the motor vehicle or combination or result in a mechanical breakdown shall be corrected before the vehicle or combination is driven on the highway, and carriers shall retain such reports for at least three months.

(f) ***Inspection, Maintenance, Lubrication, and Repair Records.*** Motor carriers shall document each systematic inspection, maintenance, and lubrication, and repair performed for each vehicle under their control. These vehicle records shall be kept at the carrier's maintenance facility or terminal where the vehicle is regularly garaged. Such records shall be retained by the carrier for one year and include at least:

(1) Identification of the vehicle, including make, model, license number, or other means of positive identification

(2) Date or mileage and nature of each inspection, maintenance, lubrication, and repair performed

(3) Date or mileage and nature of each inspection, maintenance, and lubrication to be performed; e.g., the inspection, maintenance, and lubrication intervals

(4) The name of the lessor or contractor furnishing any vehicle

(5) On school bus, SPAB, and GPPV records, the signature of the person performing the inspection

(g) ***Temporarily Assigned Vehicle.*** When a vehicle is garaged at other than the carrier's regular maintenance facility for periods exceeding normal intervals for inspection, maintenance, and lubrication, carriers shall ensure the record(s) indicating the date or mileage and nature of these operations to be performed, are kept in the vehicle.

(h) ***School Bus Accident Reports.*** School bus carriers shall maintain a report of each accident that occurred on public or private property involving a school bus with pupils aboard. The report shall contain pertinent details of the accident and it shall be retained for 12 months from the date of the accident. If the accident was not investigated by the CHP, the carrier shall forward a copy of the report to the local CHP within five work days of the date of the accident.

NOTE: Authority cited: Sections 31401, 34501, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 545, 546, 31401, 34501, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.