

Chapter Trans 327

MOTOR CARRIER SAFETY

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Trans 327.01 Definitions. Words and phrases defined in s. 340.01, Stats., and 49 CFR part 390.5 have the same meaning in this chapter. However, the definition of a word or phrase in s. 340.01, Stats., except s. 340.01 (8), Stats., shall apply when the word or phrase is defined in both s. 340.01, Stats., and 49 CFR part 390.5.

(2) In this chapter:

(a) "Driver's record of duty status" means a form for all drivers, when required by this chapter, to record all off-duty time, on-duty time and driving time.

(b) "Driving time" shall include all time spent at the driving controls of a motor vehicle in operation.

(c) 1. "Driver salesperson" means any employee who meets all of the following:

a. Is employed by a private carrier of property by commercial motor vehicle solely for that purpose.

b. Is engaged in both 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.

c. Does the actions under subd. 1. b. entirely within a radius of 100 miles of the point at which he or she reports for duty.

d. Spends not more than 50% of his or her hours on duty in driving a vehicle under this paragraph.

2. For purposes of this paragraph, "selling goods" means soliciting or obtaining reorders or new accounts. The term may include other selling or merchandising activities designed to retain a person as a customer or to increase the sale of goods or services.

(d) "Emergency" means the result of any natural activities including, but not limited to, tornado, windstorm, thunderstorm, snowstorm, ice storm, blizzard, drought, mud slide, flood, high water, earthquake, forest fire, explosion, blackout or other occurrence, natural or manmade, which interrupts the delivery of essential services, such as electricity, medical care, sewer, water, telecommunication transmissions, or essential supplies, such as food and fuels, or otherwise threatens human life or public welfare.

(e) "Ground water well drilling rig" means any vehicle, machine, tractor, trailer, semi-trailer, or specialized mobile equipment propelled or drawn by mechanical power and used on highways to transport water well field operating equipment, including water well drilling and pump service rigs equipped to access ground water.

(f) "On-duty time" means that time period from the time a driver begins to work until the time the driver is relieved from work and all responsibility for performing work. The term "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 equipment as required or otherwise inspecting, servicing, or conditioning any motor vehicle at any time;

3. All driving time as defined in subd. 2.;

4. All time, other than driving time, in or upon any motor vehicle except time spent resting in a sleeper berth;

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 performing the driver requirements and relating to accidents;

7. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle;

8. All time performing any other work in the capacity of, or in the employ or service of, a common, contract or private motor carrier.

9. All time performing any compensated work for any non-motor carrier entity.

(g) "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 within a 50 air mile radius of the normal work reporting location of the driver. This paragraph does not apply to the transportation of hazardous material under 49 USC 5103 in a quantity requiring placarding.

Note: An active construction site is a construction site between mobilization of equipment and materials to the site to the final completion of the construction project.

(h) "Twenty-four hour period" means any 24 consecutive hour period beginning at the time designated by the motor carrier for the terminal from which the driver is normally dispatched.

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87; emerg. r. and recr. (intro.), renum. (1) and (2) to be (2) (b) and (d), cr. (1), (2) (intro.), (a), (c), (d) 9., eff. 4-1-95; r. and recr. (intro.), renum. (1) and (2) to be (2) (b) and (d) and am. (2) (d) (intro.) and 3., cr. (2) (a), (c) and (d) 9., Register, August, 1995, No. 476, eff. 9-1-95; correction in (2) (d) 3., made under s. 13.93 (2m) (b) 7., Stats., Register, October, 2000, No. 538; CR 02-080: renum. (2) (c), (d) and (4) to be (2) (d), (f) and (h) and am. (2) (f) 3., cr. (2) (c), (e) and (g) Register April 2003 No. 568, eff. 5-1-03.

Trans 327.03 Federal regulations adopted. The following federal motor carrier safety regulations adopted by the United States department of transportation and in effect on January 4, 2004, are adopted by the department and shall be enforced in relation to those carriers, drivers or vehicles which operate in intrastate commerce in the same manner as though the regulations were set out in full in this chapter:

(1) Title 49, Code of Federal Regulations, part 390, federal motor carrier safety regulations—general, except 390.23 (a) (3);

(2) Title 49, Code of Federal Regulations, part 391, qualifications of drivers, except 391.11 (b) (1), and 391.41 (b) (3) if, in the alternative a driver with diabetes controlled by insulin obtains statements from 2 licensed physicians indicating, on a form provided by the department of transportation, that the diabetes is not likely to cause loss of ability to control or operate a motor vehicle;

Note: Refer to ch. Trans 112 for criteria requiring cancellation/voluntary temporary surrender of the CDL for medical purposes.

(3) Title 49, Code of Federal Regulations, part 392, driving of motor vehicles, except 392.16;

(4) Title 49, Code of Federal Regulations, part 393, parts and accessories necessary for safe operation, except 393.42 shall not

apply to vehicles placed in operation in common, contract or private carriage prior to June 1, 1987;

(5) Title 49, Code of Federal Regulations, part 396, inspection, repair and maintenance;

(6) Title 49, Code of Federal Regulations, part 397, transportation of hazardous materials; driving and parking rules.

(7) Every traffic officer and state patrol inspector employed under the authority of s. 110.07, Stats., is authorized to declare vehicles and drivers out-of-service in accordance with the 2003 North American uniform out-of-service criteria.

(8) Title 49, Code of Federal Regulations, part 382, federal motor carrier safety regulations—controlled substances and alcohol use and testing;

(9) Title 49, Code of Federal Regulations, part 40—procedures for transportation workplace drug and alcohol testing programs;

Note: The North American Uniform Out-of-Service Criteria is on file with the offices of the Revisor of Statutes, the Secretary of State, and the Department of Transportation, Division of State Patrol. Copies may be obtained by writing to the Division of State Patrol, P. O. Box 7912, Madison, WI 53707-7912, or to the Commercial Vehicle Safety Alliance, 5430 Grosvenor Lane, Suite 130, Bethesda, MD 20814.

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87; emerg. am. (intro.), (1), (4) and (5), eff. 4-1-95; am. (intro.), (1), (4) and (5), Register, August, 1995, No. 476, eff. 9-1-95; am. (intro.) and (2), Register, October, 2000, No. 538, eff. 11-1-00; CR 02-080: am. (intro.), renum. (1) to (6) to be (3) to (8) and am. (4) and (7), cr. (1), (2) and (9) Register April 2003 No. 568, eff. 5-1-03; **CR 03-059: am. (intro), renum. (1) to (3) to be (8), (9) and (1) and (5) to (8) to be (3) to (6), renum. and am. (4) to be (2) and (9) to be (7) Register December 2003 No. 576, eff. 1-4-04.**

Trans 327.05 Hours of service of drivers. (1) **GENERAL.** Except as provided in s. Trans 327.09 (4), every intrastate motor carrier, its officers, drivers, agents, employees, and representatives shall comply with the provisions in this section, and every intrastate motor carrier shall require that its officers, drivers, agents, employees, and representatives be conversant with the provisions in this section.

(2) **REGULATORY GUIDANCE.** The hours of service provisions in this chapter shall be interpreted in a manner consistent with the regulatory guidance provisions of 49 CFR part 395 when applicable.

(3) **MAXIMUM DRIVING AND ON DUTY TIME.** Except as provided in s. Trans 327.09, no motor carrier shall permit or require any driver to drive nor shall any driver drive:

(a) More than 12 hours following 8 consecutive hours off duty.

(b) For any period after having been on duty 16 hours following 8 consecutive hours off duty.

(c) After having been on duty for 70 hours in any period of 7 consecutive days.

(d) After having been on duty for 80 hours in any period of 8 consecutive days.

(4) **TRAVEL TIME.** When a driver at the direction of a motor carrier is traveling, but not driving or assuming any other responsibility to the carrier, the driver's traveling time shall be counted as on-duty time unless the driver is afforded at least 8 consecutive hours off duty when arriving at his or her destination, in which case the driver shall be considered off duty for the entire period.

(5) **DRIVER'S RECORD OF DUTY STATUS.** (a) Every motor carrier shall require every driver used by the motor carrier to record the driver's duty status for each 24-hour period. Failure to complete the record of duty activities of this section, failure to preserve a record of such duty activities, or making of false reports in connection with such duty activities shall constitute a violation of this chapter.

(b) Each motor carrier shall maintain records of duty status and all supporting documents for each driver it employs for a period of 6 months from the date of receipt of the duty status and reporting documents.

(c) The driver shall retain a copy of each record of duty status for the previous 7 consecutive days which shall be in the driver's possession and available for inspection while on duty.

Note: The maintenance and retention of separate driving logs is not necessarily required to meet the 'records of duty status' provisions of this subsection. This subsection does, however, require records showing all off-duty, on-duty and driving time. A time card, for example, that recorded the daily total of off-duty, the daily total of on-duty, and the daily total of driving time for the employee could be used to meet the reporting requirements of this subsection.

(6) **DRIVERS DECLARED OUT OF SERVICE.** (a) Every traffic officer and state patrol inspector, as set forth in s. 110.07, Stats., is authorized, except in the case of an emergency, to declare a driver out of service and to notify the motor carrier of that declaration, upon finding at the time and place of examination that the driver has violated par. (b).

(b) 1. No driver shall drive after being on duty in excess of the maximum periods permitted by sub. (3).

2. No driver required to maintain a record of duty status under sub. (5) shall fail to have a true and accurate record of duty status current on the day of examination and for the prior 7 consecutive days.

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87; emerg. am. (1), (4) to (6), renum. (2) to be (3) and am., cr. (2), (3) (c) and (d), eff. 4-1-95; am. (1), (4) to (6), renum. (2) to be (3) and am., cr. (2), (3) (c) and (d), Register, August, 1995, No. 476, eff. 9-1-95; CR 02-080: renum. (5) and (6) to be (5) (a) and (6) (a) and am., cr. (5) (b), (c) and (6) (b) Register April 2003 No. 568, eff. 5-1-03.

Trans 327.07 Enforcement. (1) The provisions of s. Trans 327.03 (4) and (5) shall be enforced under the provisions of ss. 110.07 and 110.075, Stats.

(2) The provisions of ss. Trans 327.03 (2), (3) and (6), and 327.05 shall be enforced under the provisions of ss. 194.38 and 194.43, Stats.

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87; emerg. am. (2), eff. 4-1-95; am. (2), Register, August, 1995, No. 476, eff. 9-1-95; corrections made under s. 13.93 (2m) (b) 7., Stats., Register May 2003 No. 569; corrections made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576.

Trans 327.09 Exemptions. (1) The provisions of s. Trans 327.03 do not apply to a driver or school bus when the school bus is being used for authorized educational or extracurricular or charter activities.

(2) The provisions of s. Trans 327.03 (2) do not apply to the following:

(a) Drivers who operate motor vehicles which have a manufacturers' gross vehicle weight rating equal to or less than 26,000 pounds, except that this provision does not apply to vehicles transporting hazardous materials requiring placarding or vehicles transporting 16 or more passengers including the driver.

(b) Drivers who have met state medical qualifications and have been issued a valid Wisconsin commercial driver's license, or CDL, prior to July 29, 1996, which has not been revoked, and who continue to meet state medical requirements as found in ch. Trans 112.

(3) The provisions of s. Trans 327.03 (6) do not apply to drivers and vehicles transporting hazardous materials by a motor vehicle which is not required to be placarded.

(4) The provisions of s. Trans 327.05 do not apply to the following:

(a) Drivers of authorized emergency vehicles as defined in s. 340.01 (3), Stats.

(b) Drivers who operate motor vehicles which have a manufacturers' gross vehicle weight rating equal to or less than 26,000 pounds.

(c) Drivers of tow trucks as defined in s. 340.01 (67n), Stats., operating at the request of a law enforcement officer.

(5) The provisions of s. Trans 327.05 (5) do not apply to drivers of vehicles operating within an area having a 150 air mile radius from the drivers' home post office or a 150 air mile radius from the official worksite of the vehicle if:

(a) The driver returns to the work reporting location and is released within 12 consecutive hours.

(b) At least 8 consecutive hours off duty separate each 12 hours on duty.

(c) The driver does not exceed 12 hours maximum driving time following 8 consecutive hours off duty.

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

1. The time the driver reports for duty each day.
2. The total number of hours the driver is on duty each day.
3. The time the driver is released from duty each day.

(6) The provisions of s. Trans 327.05 (3) (c) and (d) do not apply to any driver salesperson whose total driving time does not exceed 40 hours in any period of 7 consecutive days.

(7) The provisions of s. Trans 327.05 (3) do not apply with respect to drivers of commercial motor vehicles engaged solely in making local deliveries from retail stores or retail catalog businesses, or both, 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.

(8) The provisions of s. Trans 327.05 (3) do not apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes in the state if the transportation:

(a) Is limited to an area within a 100 air mile radius from the source of the commodities or the distribution point for the farm supplies.

(b) Is conducted during the planting and harvesting seasons within the state, as defined in s. Trans 325.01.

(9) In the instance of a driver of a commercial motor vehicle who is used primarily in the transportation and operations of a ground water well drilling rig, any period of 7 or 8 consecutive days may end with the beginning of any off-duty period of 24 or more successive hours.

(10) In the instance of a driver of a commercial motor vehicle who is used primarily in the transportation of construction materials and equipment, any period of 7 or 8 consecutive days may end with the beginning of any off-duty period of 24 or more successive hours.

(11) In the instance of a driver of a utility service vehicle, any period of 7 or 8 consecutive days may end with the beginning of any off-duty period of 24 or more successive hours.

(12) (a) 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 8 consecutive days may end with the beginning of any off duty period of 24 or more successive hours.

(b) In the case of specially trained drivers of commercial motor vehicles which are specially constructed to service oil wells, on duty time may 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. The records shall be made available upon request of a traffic officer or state patrol inspector.

(13) (a) The provisions of ss. Trans 327.03 (2) and 327.05 do not apply to drivers of motor vehicles when transporting property or passengers during a declared emergency as defined in s. Trans 327.01 (2) (d). Each employer must declare and document that the emergency is necessary to assure the protection of public health and safety or to provide other essential assistance to the public. Each employer shall maintain such documentation for one year and shall make it available upon request of a traffic officer or state patrol inspector. Each employer shall also notify the Wisconsin department of transportation, division of state patrol of such declarations by fax or first class mail within 30 days or by the end of the calendar year, whichever is greater.

Note: Declarations can be faxed to (608) 266-4495.

(b) Drivers returning to normal duty following the end of a declared emergency and when s. Trans 327.05 hours of service have been exceeded shall be off duty for at least 24 consecutive hours.

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87; emerg. am. (2) (a) and (3), r. and recr. (2) (b), renum. (4) (c) to be (5), cr. (4) (c), eff. 4-1-95; am. (2) (a) and (3), r. and recr. (2) (b), renum. (4) (c) to be (5) (intro.) and am., cr. (4) (c), (5) (a) to (d) and (6), r. (4) (d), Register, August, 1995, No. 476, eff. 9-1-95; renum. (6) to be (6) (a), cr. (6) (b), Register, October, 2000, No. 538, eff. 11-1-00; CR 02-080; renum. (6) to be (13) and am., cr. (6) to (12) Register April 2003 No. 568, eff. 5-1-03; corrections in (2) (intro.), (3) and (13) (a) made under s. 13.93 (2m) (b) 7., Stats., Register May 2003 No. 569; **CR 03-059: am. (8) (intro) and (b) Register December 2003 No. 576, eff. 1-4-04; corrections in (2) (intro), (3) and (13) (a) made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576.**

Trans 327.11 Demerit points not applicable. No demerit points may be assessed for violations of the regulations adopted in this chapter.

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87.

Trans 327.13 Copies of federal regulations. The department shall advise carriers that copies of the federal regulations cited in s. Trans 327.03 may be obtained by contacting the division of state patrol, Wisconsin department of transportation.

History: Cr. Register, May, 1987, No. 377, eff. 6-1-87; emerg. am. eff. 4-1-95; am. Register, August, 1995, No. 476, eff. 9-1-95.