



60 Years
Exceeding
Expectations

Cart 0 items

[Login](#) | [My Account](#) | [Customer Service](#) | 1-877-564-2333
[Home](#)[Transportation](#)[Workplace Safety](#)[Human Resources](#)[Construction Safety](#)[Hazardous Materials](#)

New Hours-of-Service FAQs

Who is affected by the new hours-of-service rules?

The new federal hours-of-service (HOS) rules, with a compliance deadline of July 1, 2013, apply to drivers and motor carriers who are operating commercial motor vehicles (CMVs) and either:

- Are engaged in interstate commerce and have to comply with the FMCSA's (federal) safety regulations in 49 CFR Part 395; or
- Are engaged in intrastate commerce — conducted entirely within a single state — and that state has adopted and enforces the new federal HOS regulations

Although portions of the new rules apply to passenger-carrying vehicles (specifically, some of the changes that took effect February 27, 2012), the changes taking place on July 1, 2013, apply only to drivers of property-carrying vehicles.

What are the compliance dates for the new hours-of-service rule?

The hours-of-service final rule was published December 27, 2011. The effective date was February 27, 2012; however, not all the new provisions had to be complied with at that time. The rule included two separate compliance deadlines:

February 27, 2012 (all CMVs)

Effective February 27, 2012, drivers resting in a legally parked vehicle and not using the sleeper berth — whether a bus or a truck — are allowed to log the time as "off duty." Truck drivers will also be able to log off duty for up to 2 hours riding in a passenger seat on a moving vehicle immediately before or after spending at least 8 consecutive hours in a sleeper berth.

July 1, 2013 (property-carrying CMVs only)

Beginning July 1, 2013, the driving of a property-carrying CMV will not be permitted if more than 8 consecutive hours have passed since the end of the driver's last rest break of at least 30 consecutive minutes. If the driver has not had at least a 30-minute break by the end of his/her eighth hour, the driver must take a 30-minute break before driving. A lunch break or time resting in the sleeper berth will satisfy this in most cases.

The biggest change will be in the reduction of hours a driver will be allowed to log in a 7-day (168-hour) period, due to changes in the 34-hour "restart" provision. The current rule allows a driver to work right up to his or her 60- or 70-hour limit, take a 34-hour restart, and then go again. This allows a driver to accumulate up to 82 working hours in a 7-day period.

As of July 1, 2013, the new rule will limit the maximum number of hours a driver can work and drive to 70 hours per week, by limiting when and how often a driver can take a "restart." One change will require that the restart break include two back-to-back nighttime periods of rest from 1:00 am to 5:00 am, which could force some drivers to be off duty for longer than 34 hours to get a valid restart. Another change will limit the use of the restart to once in any 168-hour period (exactly 7 days, down to the hour). The rule specifically says that a driver cannot start another restart break until 168 hours have passed since the start of his or her last restart break. Also, if a driver has multiple potential 34-hour restart periods off within a 7 day period, the driver will need to indicate on the log or time records which one of those breaks is being counted as the restart, if any.

Early compliance with 2013 rules

As these new rules are stricter than the ones they are replacing, voluntary compliance was allowed with all the new 2013 provisions beginning February 27, 2012.

Where can I find the new provisions?

The changes that most drivers and carriers need to worry about are found in:

- 49 CFR Sec. 395.2, under the definition of "on duty time"; and
- 49 CFR Sec. 395.3, the basic HOS limits for drivers of property-carrying vehicles.

Is there a grace period for compliance?

No. Compliance with all provisions in the new hours-of-service rules is required as of 12:01 a.m. on July 1, 2013. Individual enforcement officers or agencies may choose "soft enforcement" for a period of time after July 1, but that is not official or guaranteed. In part, this means that drivers taking a restart break after July 1 will need to make sure that the break does not begin until 168 hours after the last restart break, even if that last break was taken prior to July 1.

Will the courts delay the July 1 deadline?

A decision in a pending legal challenge to the new hours-of-service rules is expected from a federal appeals court. The decision may or may not arrive before July 1, 2013 (the court does not have to meet a specific deadline), and the decision may or may not have any effect on the compliance deadline or the hours-of-service rules. Motor carriers and drivers should be prepared to comply with the HOS rules on July 1, but watch for news concerning the court decision.

How do the new 'off-duty' provisions work (as of 2/27/12)?

1. Time spent resting in a parked vehicle (including any type of vehicle, whether truck, bus, car, etc.) can be recorded as "off duty" (unless you are in a sleeper berth, in which case it would have to be recorded as "sleeper berth"). Unless you spend 10 consecutive hours off duty (which may include sleeper-berth time), the time will count against your 14-hour allowance; it will not "stop the clock."

To record such time as "off duty," the driver must be free of responsibility and obligations to the employer, vehicle, and cargo during the break and must be free to walk away from the vehicle if he/she so chooses. If the company requires the driver to stay in the vehicle or perform work during the break, it must be recorded as "on duty" even if the driver is sitting in a parked vehicle.

2. If you spend up to 2 hours riding in a passenger seat on a moving property-carrying CMV immediately before or after an 8-hour sleeper-berth period, then that time can be recorded as "off duty" AND be excluded from the 14-hour calculation. This should benefit team drivers who no longer have to spend a full 10 hours in the sleeper berth; they can spend 8 hours in the bunk and another 2 hours riding in a passenger seat. Time spent in a moving passenger seat beyond 2 hours must be recorded as "on duty" unless the vehicle is parked and the driver is off duty.

Does a driver need a 30-minute break every 8 hours of driving?

The 8 hours are consecutive hours, so they include driving and all other time (including any breaks that are less than 30 minutes). The new rule says you have to stop driving CMVs once you reach 8 consecutive hours past the end of your last break of at least 30 consecutive minutes.

If a driver won't be driving after the 8th hour, does he or she need a break?

No, not under the federal HOS rules. The rules only restrict drivers from driving a property-carrying CMV after 8 hours without a break. If a driver will be working but not driving a CMV after 8 hours, then no break is required.

How do you log the 30-minute break?

To be counted as a valid break (for compliance with the 8-hour/30-minute rule), it must be logged "off duty" or "sleeper berth." Any time that must be logged as "on duty" based on the definition of "on duty time" in section 395.2 cannot count as a valid break (except in the case of certain drivers transporting explosives who must "attend" the cargo and can use attendance time as their break). In general, to be "off duty" the driver must be free of all obligations and responsibilities and free to leave the premises.

Note that any kind of "off duty" or "sleeper berth" time will satisfy the rule. For example, a lunch break, a 10-hour break, time spent resting in a sleeper berth (even if used for the "split sleeper" option), or time spent resting in a parked vehicle will satisfy the break requirement in most cases. The key is that drivers must be relieved of all duty and responsibility and be free to walk away from the vehicle and cargo for the duration of the break.

Might some drivers need more than one break each day?

Yes. Drivers who work long days or who take the 30-minute break too early may need two or more breaks in one day. For example, a driver who takes the break after the first hour of the day and who has another 9 hours of driving ahead will need a second break within 8 hours after the end of the first break. The longer the work day, the more likely a second break could be needed (especially if the first break is taken too early).

How does the 30-minute break affect the 14-hour rule?

The 30-minute break must be spent "off duty" and/or in a sleeper berth, but no matter how it is spent it must be counted as part of the driver's 14-hour allowance. The driver does not get 14 hours of on-duty time in addition to the 30-minute break. It takes 30 minutes out of the driver's 14 available hours. The breaks will not extend the 14-hour window.

Do drivers who are exempt from logging need the 30-minute break?

Yes, drivers using the "100 air-mile radius" or "non-CDL 150 air-mile radius" provisions in section 395.1(e) and operating property-carrying CMVs after the 8th hour of the day are required to take the minimum 30-minute break. However, because these drivers are not required to maintain logs, the FMCSA says they are not required to record the break periods. The breaks should not be included in the drivers' total on-duty hours for the day, however (since they must be spent "off duty").

Do oilfield drivers need the 30-minute break?

Yes. Drivers using either of the oilfield exceptions in Sec. 395.1(d) are required to comply with the 30-minute rest-break requirement. Drivers eligible for the "waiting time" exception (305.1(d)(2)) can use off-duty waiting time as their break.

Do hazmat drivers need to take the mandatory break?

Yes. Drivers hauling hazardous materials are subject to the requirement for a mandatory 30-minute break, and it must be spent "off duty" unless transporting Division 1.1, 1.2, or 1.3 explosives. Drivers transporting these explosives must remain "on duty" at all times while "attending" the load (see Sec. 397.5), so they are allowed to show their mandatory breaks as "on duty" as long as they enter a remark on the log to designate a 30-minute period as their break. No other work (other than attending to the load) can be performed during the break.

Other hazmat drivers who are required to attend their loads while operating on public highways under Sec. 397.5 must be allowed to go "off duty" for their breaks.

Note that certain drivers hauling radioactive materials and who are operating under contract with the Department of Energy have been given an exemption that allows them to use the exception granted to drivers transporting explosives (see Sec. 395.1(q)).

Does the 30-minute break apply to drivers of passenger-carrying vehicles?

No. The 30-minute break requirement only applies to property-carrying CMV drivers.

Under the new rules, is the 34-hour restart provision still optional?

Yes. Even after compliance with the new rule is required in July 2013, the restart provision will still be optional, like it is today. For example, a driver who works 8 hours per day, 7 days per week, would never need to use the restart provision because he/she would never reach the 60- or 70-hour limit. Drivers may continue to keep a running total or "recap" of their hours over the past 7 or 8 days and "do the math" each day to determine when they may need time off before driving again. In some cases, getting a restart will be the quickest way to get back on the road.

How does the 1 a.m. – 5 a.m. provision work?

This new restriction will force drivers to get two, back-to-back, nighttime periods of rest as part of their 34-hour restart break, even if they normally work at night. Under this new rule, for a rest break to count as a "restart," it must include the 28 consecutive hours from 1 a.m. on the first day until 5 a.m. on the following day, plus enough additional time on either end (at least 6 hours) to total at least 34 hours.

For example, a driver can get a restart by going off duty from 7:00 p.m. on Friday until 5:00 a.m. on Sunday. The break includes the hours from 1-5 a.m. on Saturday morning and again on Sunday morning and is at least 34 hours long.

Drivers will only be able to take exactly 34 hours off to get their restart if they begin their break between 7 p.m. and 1 a.m. If they start earlier than 7 p.m. or after 1 a.m., they'll need more than 34 hours off.

Does the 34-hour restart break have to be taken at the driver's home?

No. The break can be taken in any location but it must be logged based on the time standard in effect at the driver's home terminal.

Will the 1 a.m. – 5 a.m. constraints apply to any of the 24-hour restart provisions?

No, the changes to the 34-hour restart have no effect on any of the 24-hour restart provisions (which only apply to a limited set of eligible drivers). The 24-hour restart provisions were set in law by Congress, so the FMCSA is not authorized to change them.

How does the 168-hour-rule work?

The purpose of the 168-hour rule (according to the DOT) is to make sure that drivers cannot put in 70 hours of work, immediately take a restart, and then immediately go back to driving, week after week. This results in drivers being able to average about 82 hours per week instead of a maximum of 70.

Under this new restriction, drivers will not be able to start another "restart" break until 168 consecutive hours — exactly 7 days — have passed since the start of their last "restart" break. For example, a driver who begins a restart break at 8:00 p.m. on a Tuesday will not be able to start another restart break until 8:00 p.m. or later on the following Tuesday, even if the driver runs out of hours long before then.

What if a driver takes several "restart" breaks in a week?

If a driver takes more than one period of 34 hours off duty within a 168-hour period, only one of those breaks (if any) will count as a restart, and the driver must indicate which rest period is being used as the restart by entering a remark on the log.

Are drivers from Canada or Mexico affected by the new HOS rules?

Yes, if they operate in the United States. Drivers from Canada and Mexico who come into the U.S. will need to be in full compliance with the U.S. hours-of-service rules upon crossing the border, just like any U.S. driver. This includes the need to comply with the mandatory break requirement and the restrictions on getting a "restart."

[back to top](#)

- [About Us](#)
- [Contact Us](#)
- [Careers](#)
- [Legal Information](#)
- [Sitemap](#)

[Celebrating 60 Years! Learn more.](#)

Email Sign-Up

Get timely regulatory updates, helpful compliance ideas, money-saving offers, and much more! Simply enter your email address in the box to the right and click Sign up.

[Change email preferences](#)

Connect With Us

Corporate

- [About Us](#)
- [Careers](#)
- [Community Involvement](#)
- [Customer Stories](#)
- [Press Room](#)

Policies & Info

- [FAQs](#)
- [Privacy Policy](#)
- [Internet Terms of Use](#)

Customer Service

- [Contact Us](#)
- [Email Preferences](#)
- [My Account](#)
- [Pay My Invoice](#)
- [Request a Catalog](#)
- [Site Map](#)
- [Support](#)

J. J. Keller Websites

- [2290online](#)
- [Business Services](#)
- [Custom Signs & Labels](#)
- [FleetMentor®](#)
- [J. J. Keller Training](#)
- [KellerOnline®](#)
- [KellerPermits](#)
- [Prospera®](#)
- [View More](#)

J. J. Keller is the trusted source for DOT / Transportation, OSHA / Workplace Safety, Human Resources, Construction Safety and HazMat / Hazardous Materials regulation compliance products and services. J. J. Keller helps you increase safety awareness, reduce risk, follow best practices, improve safety training, and stay current with changing regulations.

Copyright © 2013 J. J. Keller & Associates, Inc.
All rights reserved.