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UNDERSTANDING 150 AIR-MILE EXCEPTIONS

A commercial motor vehicle (CMV) driver who operates locally, within a 150 air-mile radius, may qualify for certain exceptions from federal hours-of-service rules. Qualifying drivers may use simpler time records and, depending on the type of vehicle being driven, may be exempt from 30-minute breaks, the standard 14-hour limit, and the need to keep supporting documents. The exceptions apply to drivers and motor carriers operating property-carrying and passenger-carrying CMVs in interstate commerce.

Key Definitions.

- 150 air-mile radius: One hundred and fifty air-miles are equivalent to 172.6 statute miles.
- Commercial driver's license (CDL): A license issued to an individual by a state or other jurisdiction of domicile, in accordance with the standards contained in 49 CFR 383, to an individual which authorizes the individual to operate a class of a commercial motor vehicle.
- Commercial motor vehicle (CMV): A self-propelled or towed motor vehicle used on a highway, in interstate commerce, that meets any one of the following criteria:
 - Has a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR), or gross vehicle weight (GVW) or gross combination weight (GCW), of 10,001 pounds or more, whichever is greater; or
 - Is designed or used to transport more than 8 passengers (including the driver) for compensation; or
 - Is designed or used to transport more than 15 passengers (including the driver), and not used to transport passengers for compensation; or
 - Is transporting hazardous materials of a type or quantity which requires placarding.

Summary of Requirements. A CMV driver is not required to use a standard grid-style timekeeping log (known as a record of duty status) if the driver operates within a 150 air-mile radius of the normal work reporting location, the driver returns to the work reporting location and is released from work within 14 consecutive hours, and the following additional criteria are met:

- For the driver of a property-carrying CMV:
 - At least 10 consecutive hours off duty separate each 14 duty hours, and
 - The driver does not drive more than 11 hours following at least 10 consecutive hours off-duty;



- For the driver of a passenger-carrying CMV:
 - At least 8 consecutive hours off duty separate each 15 hours on duty, and
 - The driver does not drive more than 10 hours following at least 8 consecutive hours off duty; and
- The motor carrier maintains the driver's time records for six months showing:
 - The time the driver reports for duty each day,
 - The time the driver is released from duty each day,
 - The total number of hours the driver is on duty each day, and
 - The total time on duty for the preceding seven days for drivers used for the first time or intermittently.

The mandatory 30-minute break and supporting-document requirements do not apply to the driver of a property-carrying CMV who qualifies for this exception. A 150 air-mile radius driver is not exempt from the 60-hour/7-day or 70-hour/8-day limit.

Additional Exceptions. Additional exceptions are available to short-haul drivers of property-carrying CMVs who are not required to hold a commercial driver's license (CDL) for the vehicle being driven. The same limits and recordkeeping requirements as listed above must be met, except that the drivers:

- Are not required to be released from work after they return to the work reporting location (that is, they may continue to perform non-driving work); and
- May exceed the 14-hour limit by up to 2 hours, up to twice per seven days. Specifically, these drivers must not drive a CMV:
 - After the 14th consecutive hour after coming on duty on at least five days in any period of seven consecutive days, or
 - After the 16th consecutive hour after coming on duty on up to two days in any period of seven consecutive days.

A driver who uses this provision (for non-CDL vehicles) is not eligible to use the sleeper-berth exception (395.1(g)) or the once-per-week 16-hour exception (395.1(o)).



CLAIMS CORNER

TEXAS DIVISION OF WORKERS' COMPENSATION SEEKS COMMENTS ON INCOME BENEFITS FORM

The Texas Department of Insurance, Division of Workers' Compensation (DWC) is accepting public comments on a proposed new form: DWC Form-033, Request to Reduce Income Benefits Due to Contribution.

Adopting this form is necessary to allow insurance carriers a way to reduce the amount of income benefits they pay to an injured employee if there was a past work-related injury to the same body part or parts.

The new form is not a formal rule proposal under the Administrative Procedure Act. DWC will not treat comments as formal public comments. However, DWC will consider any substantive comment before adopting the new form. The proposed form is on the TDI website. Those who want to submit written comments on the form can email <mailto:RuleComments@tdi.texas.gov> or mail comments to:

Legal Services, MC-LS
Texas Department of Insurance, Division of Workers' Compensation
P.O. Box 12050
Austin, Texas 78711-2050

Comments must be submitted by 5 p.m. CT on May 3.

WHAT IS TRIR?

TRIR stands for "Total Recordable Incident Rate." OSHA developed this calculation to gauge a company's safety record compared to its peers. It looks at the number of recordable incidents per 100 full-time workers during a year. OSHA injury reporting data is publicly available, as are the industry averages. This can be a blessing or a curse, depending on which side of the average you fall.

Falling Above the Injury Rate Average for Your Industry... You're exposing yourself to reputational damage, never mind the potential for fines and lawsuits, and higher insurance premiums. Amazon has found itself in the headlines recently, as their data showed they reported injury rates twice as high as the injury average. This story has been plastered all over the news, added fuel to the workers' push to unionize in several locations, and can't have helped their hiring rate. Also poor TRIR scores may lead to an increase in surprise OSHA inspections and penalties. In addition, OSHA may increase its oversight of your company's EHS programs. In turn if your TRIR data is higher than industry averages, your workers comp injuries may be higher than industry average as well. Which will increase your experience modifier which results in increased insurance premiums. The higher your incident rate, the higher you could be paying for insurance. There are plenty of steps you can take to lower your TRIR. The sooner you take action, the sooner you can keep your company off the radar. Feel free to reach out to our Risk Management team to assist you.

Falling Below the Injury Rate Average for Your Industry... Shout it from the rooftops! Consumers, investors, and job hunters are monitoring this info. You're doing something right – make sure everyone knows about it!

Focus on TRIR Before Others Focus on It for You!

OSHA PROPOSES TO REVOKE ARIZONA'S STATE PLAN STATUS

OSHA has issued a proposed rule to reconsider and revoke the final approval of Arizona's State OSHA plan, which it says is in response to nearly a decade-long pattern of failures to adopt and enforce standards and enforcement policies at least as effective as those used by federal OSHA.

OSHA stated that it has grown increasingly concerned that actions by the Arizona State OSHA Plan suggest the state is either unable or unwilling to maintain its commitment to provide a program for worker safety and health protection as the OSH Act requires.

For example, Arizona has failed to adopt adequate maximum penalty levels, occupational safety and health standards, National Emphasis Programs, and the COVID-19 Healthcare Emergency Temporary Standard.

If OSHA determines that Arizona is failing to comply with its obligation to remain at least as effective as federal OSHA, the agency may initiate proceedings to revoke final approval, and reinstate federal concurrent authority over occupational safety and health issues covered by the state plan.

Comments on the proposed rule will be accepted until May 26, 2022.



SafeRacks/Monsterrax Garage Racks

Hazard: Impact Injury

Nectar Premier Mattresses

Hazard: Flammability

Insignia Air Fryers/Ovens

Hazard: Fire & Burn

GE Refrigerators

Hazard: Fall

Craftsman & Troy-Bilt Riding Mowers

Hazard: Crash

Bestar Wall Beds

Hazard: Impact, Crush, Death

USI Photoelectric Smoke & Carbon Monoxide Alarms

Hazard: Impact, Crush, Death