

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS
PART 395 HOURS-OF-SERVICE OF DRIVERS
SECTION 395.2000 INCORPORATION BY REFERENCE OF 49 CFR 395

Section 395.2000 Incorporation by Reference of 49 CFR 395

- a) "Hours-of-Service of Drivers" (49 CFR 395) is incorporated by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 382, 383, 385, appendix B of 386, 387, 390, 391, 392, 393, 395, 396 and 397) was in effect on October 1, 2006 subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 395 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3rd Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/safety.html>.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
- c) The following interpretations of, additions to and deletions from 49 CFR 395 shall apply for purposes of this Part.
- 1) 49 CFR 395.1(h) and 395.1(i) are deleted and not incorporated.
 - 2) 49 CFR 395.1(e)(1) as it applies to intrastate carriers is amended to establish that *drivers shall operate within a 150 air-mile radius of the normal work reporting location to qualify for exempt status.* (Section 18b-105(d) of the Illinois Motor Carrier Safety Law (the Law) [625 ILCS 5/18b-105(d)])
 - 3) 49 CFR 395.5 shall apply to any operator of a commercial motor vehicle providing transportation of property or passengers to or from a theatrical or television motion picture production site located within a 100 air mile radius of the work reporting location of the operator. (See Section 4133 of the Motor Carrier Safety Reauthorization Act of 2005.)
 - 4) 49 CFR 395.13 is not incorporated and the following substituted therefor:
 - A) Authority to declare drivers out-of-service due to any violation of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] or the Illinois Motor Carrier Safety Regulations that warrants placing the driver out-of-service under the "North American Uniform Out-of-Service Criteria" as defined in 92 Ill. Adm. Code 390.1020. Every Illinois State Police officer certified to conduct Commercial Vehicle Inspections, Levels 1, 2, 3, 4 or 5 (as defined in 92 Ill. Adm. Code 390) is authorized to declare a driver out-of-service as set forth in subsection (c)(4)(B) and to notify the motor carrier of that declaration upon finding at the time and place of examination that declaring the driver out-of-service is warranted. Notification to the

motor carrier is accomplished when the Illinois State Police officer presents the Illinois Commercial Driver/Vehicle Inspection Report (Form ISP 5-238) to the driver.

B) Out-of-Service Criteria

i) No driver shall drive after being on duty in excess of the maximum periods permitted by 49 CFR 395.

ii) No driver required to maintain a record of duty status under 49 CFR 395.8 or 395.15 shall fail to have a record of duty status current on the day of examination and for the prior seven consecutive days.

iii) Exception. A driver failing only to have possession of a record of duty status current on the day of examination and the prior day, but who has completed records of duty status up to that time (previous 6 days), will be given the opportunity to make the duty status record current.

C) Responsibilities of motor carriers

i) No motor carrier shall:

Require or permit a driver who has been declared out-of-service to operate a commercial motor vehicle until that driver may lawfully do so under the requirements in 49 CFR 395.

Require a driver who has been declared out-of-service for failure to prepare a record of duty status to operate a commercial motor vehicle until that driver has been off duty for the appropriate number of consecutive hours required by 49 CFR 395 and is in compliance with this Section. The appropriate consecutive hours off duty period may include sleeper berth time.

ii) A motor carrier shall, if required (refer to 92 Ill. Adm. Code 396.2010 for requirement), complete the "Notice to Motor Carrier" portion of the Form ISP 5-238 (Illinois Commercial Driver/Vehicle Inspection Report) and deliver the copy of the form either personally or by mail to the Illinois State Police Motor Carrier Safety Section at the address specified upon the form within 15 days following the date of examination. If the motor carrier mails the form, delivery is made on the date it is postmarked.

D) Responsibilities of the Driver:

i) No driver who has been declared out-of-service shall operate a commercial motor vehicle until that driver may lawfully do so under the requirements of 49 CFR 395.

ii) No driver who has been declared out-of-service, for failing to prepare a record of duty status, shall operate a commercial motor vehicle until the driver has been off duty for the appropriate number of consecutive hours required by 49 CFR 395 and is in compliance with this Section.

iii) A driver to whom a form has been tendered declaring the driver out-of-service shall within 24 hours thereafter deliver or mail the copy to a person or place designated by motor carrier to receive it.

iv) This Section does not alter the hazardous materials requirements prescribed in 92 Ill. Adm. Code 397 pertaining to attendance and surveillance of commercial motor vehicles.

5) Part 395 shall not apply to agricultural operations as defined in 92 Ill. Adm. Code 390.1020 that are engaged in intrastate commerce at any time of the year within a 100 air mile radius from the source of the agricultural commodity or the distribution point (see definitions in 92 Ill. Adm. Code 390.1020) for farm supplies used for agricultural purposes (also defined in 92 Ill. Adm. Code 390.1020). (See Section 18b-105(c)(6) of the Law and Section 4130 of the Motor Carrier Safety Reauthorization Act of 2005.)

6) Part 395 shall not apply to all farm to market agricultural transportation as defined in 92 Ill. Adm. Code 390.1020 that is engaged in intrastate commerce. (Section 18b-105(c)(6) of the Law)

7) Part 395 shall not apply to any grain hauling operations that are engaged in intrastate commerce within a radius of 200 air miles of the normal work reporting location. (Section 18b-105(c)(6) of the Law)

d) *A contract carrier shall limit the hours-of-service by a driver transporting employees in the course of their employment on a road or highway of this State in a vehicle designed to carry 15 or fewer passengers to 12 hours of vehicle operation per day, 15 hours of on-duty service per day, and 70 hours of on-duty service in 7 consecutive days. The contract carrier shall require a driver who has 12 hours of vehicle operation per day or 15 hours of on-duty service per day to have at least 8 consecutive hours off duty before operating a vehicle again.* (Section 18b-106.1 of the Law)

Agency Note: See 92 Ill. Adm. Code 386, Subpart C: Public Utility Exemptions, for provisions relating to possible exemptions from 92 Ill. Adm. Code 390, 392, 393, 396 and 397 for applicable intrastate public utility commercial motor vehicles.

(Source: Amended at 32 Ill. Reg. 10433, effective June 25, 2008)