

National Safety Code

BULLETIN

RE: Hours of Service Regulations During the Current COVID-19 Pandemic

This bulletin provides clarity regarding B.C.'s Hours of Service (HOS) regulations while providing relief during the current COVID-19 pandemic.

The *Motor Vehicle Act Regulations* (MVAR) 37.11 states:

This Part does not apply to a driver who is driving: ...

(d) a commercial motor vehicle transporting passengers or goods for the purpose of providing relief in the case of an earthquake, flood, fire, famine, drought, epidemic, pestilence or other disaster

This section provides an exemption from the HOS rules, but it can also lead to uncertainty about what should be described as “providing relief” or how widespread the issue must be to warrant the use of this exemption.

Given the declaration of a public health emergency, CVSE wants to ensure that carriers are aware that drivers operating commercial motor vehicles transporting passengers or goods for the purpose of providing relief directly related to COVID-19 are exempt under MVAR 37.11(d).

At this time, providing relief is understood to include transportation to meet immediate needs for:

1. Medical supplies and equipment related to the testing, diagnosis and treatment of COVID-19;
2. Supplies and equipment necessary for community safety, sanitation, and prevention of community transmission of COVID-19 such as masks, gloves, hand sanitizer, soap and disinfectants;
3. Food, paper products and other groceries for emergency restocking of distribution centers or stores;
4. Immediate precursor raw materials – such as paper, plastic or alcohol – that are required and to be used for the manufacture of items in categories (1), (2) or (3);
5. Fuel;
6. Equipment, supplies and persons necessary to establish and manage temporary housing, quarantine, and isolation facilities related to COVID-19;
7. Persons designated by Federal, Provincial/Territorial or local authorities for medical, isolation, or quarantine purposes; and
8. Persons necessary to provide other medical or emergency services, the supply of which may be affected by the COVID-19 response.

This does not currently include:

- Routine commercial deliveries
- Transportation of mixed loads that include essential supplies, equipment and persons, along with supplies, equipment and persons that are not being transported in support of emergency relief efforts related to COVID-19.

When a driver is exempt from MVAR Division 37 Part 3 – Hours of Service, there is no requirement to maintain a daily log. However, as a driver may not be continuously operating under MVAR 37.11(d), it is recommended that, for future reference, a driver explain the activity in the Remarks section of the daily log without completing the detailed Schedule 2 graph grid. A driver is required to comply with the requirements in MVAR Division 37 Part 3 when not otherwise exempt and this step will help ensure the driver is able to comply.

While operating in B.C. there is no requirement to notify the Director, CVSE if a driver is operating under this exemption, and, therefore, no requirement for the driver to carry a copy of an exemption letter. Please be aware that if a B.C. based carrier has vehicles operating outside of the province, there may be other requirements in those jurisdictions.

Information regarding related exemptions when operating in other Canadian provinces or territories can be found on the Government of Canada website:

<https://www.tc.gc.ca/eng/motorvehiclesafety/essential-freight-transportation-exemption.html>

Information regarding related exemptions when operating in the U.S. can be found on the FMCSA website: <https://www.fmcsa.dot.gov/emergency-declarations#FMCSA>

As the use of this exemption does not require a letter from the Director, CVSE carriers and drivers are advised to ensure that they maintain records for any trip where the driver is exempt under MVAR 37.11(d) that provide a clear indication of how the trip provided relief related to COVID-19. It is recommended that carriers encourage shippers to indicate on the bill of lading that the supplies and equipment are being transported for the purpose of providing relief related COVID-19.

While the exemption in MVAR 37.11(d) indicates that drivers claiming this exemption are exempt from all of Part 3 – Hours of Service, this exemption only applies to drivers. Carriers, shippers, consignees and other persons must ensure compliance with Part 3 – Hours of Service including the requirements in MVAR 37.12 (a)(b) or (c) which state:

A carrier, shipper, consignee or other person must not request, require or allow a driver to drive and a driver must not drive if

- (a) the driver's faculties are impaired by fatigue, illness or a mental or physical infirmity to the point that it is unsafe for the driver to drive,
- (b) driving would jeopardize or be likely to jeopardize the safety or health of the public, the driver or the employees of the carrier,
- (c) the driver is the subject of an out-of-service declaration,

Drivers must not drive a motor vehicle on a highway without due care and attention or without reasonable consideration for other persons using the highway under Motor Vehicle Act (MVA) s. 144 and in accordance with these requirements drivers are strongly urged to continue compliance with MVAR 37.12(a)(b)(c). It is everyone's responsibility to ensure that people and goods move safely, even in emergency situations.

To assist carriers in understanding how they can exercise due diligence in ensuring a driver is not operating while fatigued, CVSE provides the following direction:



- If driver informs the carrier that they are in need of rest, the driver must be permitted to take at least 8 consecutive hours of off-duty time before having to report again to work.
- The carrier shall ensure all drivers operating under this exemption take a minimum of 24 consecutive hour of off-duty time in every 14-day period as required by MVAR 37.13.02(4).

We recognize that this is an evolving situation. CVSE will continue to monitor and provide guidance through updating this bulletin as issues emerge and more information becomes available.

If you have questions regarding whether a driver is exempt under MVAR 37.11(d), please do not hesitate to contact the NSC program office (NSC@gov.bc.ca or 250-952-0576).

Karen Coverett
Manager, National Safety Code
Commercial Vehicle Safety and Enforcement

Date	Status	Notes
18 Mar 2020	Issued	
25 Mar 2020	Updated	<ul style="list-style-type: none"> • Expanded direction regarding understanding of “providing relief” • Link to Canadian federal exemption for carriers operating outside B.C. • Direction for carriers regarding due diligence for ensuring drivers are not operating while fatigued