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CHAPTER H-5

HIGHWAY TRAFFIC ACT

COMMERCIAL VEHICLE DRIVERS (HOURS OF WORK) REGULATIONS

Pursuant to section 148 of the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5, Council made the following regulations:

1. (1) In these regulations
- | | Definitions |
|--|-------------------------------------|
| (a) "Act" means the <i>Highway Traffic Act</i> R.S.P.E.I. 1988, Cap. H-5; | Act |
| (b) "adverse driving conditions" means conditions that adversely affect the driving of a commercial vehicle and includes snow, sleet, ice and fog conditions and any other unfavourable atmospheric, road or driving conditions, none of which was apparent or known on the basis of existing information by the driver or the dispatcher at the commencement of the trip; | adverse driving conditions |
| (c) "automatic on-board recording device" means any electric, electronic or electro-mechanical device capable of recording a driver's duty status information accurately and automatically; | automatic on-board recording device |
| (d) "commercial vehicle" means a commercial vehicle as defined in clause 142(b) of the Act and includes any trailer drawn by such vehicle; | commercial vehicle |
| (e) "daily log" means a daily record covering a twenty-four hour period which provides the information required to be kept under sections 14 and 15 and includes mechanical or electronic records for such period produced by devices permitted under section 21; | daily log |
| (f) "driver" means a person who drives a commercial vehicle on a highway; | driver |
| (g) "driving time" means the period of time that a driver is at the controls of a commercial vehicle being driven on a highway; | driving time |
| (h) "home terminal" means the place of business of a carrier where the driver normally reports for work; | home terminal |
| (i) "inspector" means the Registrar, an officer appointed for carrying out the provisions of the Act, or a person duly authorized by the Registrar to enforce the Act and the regulations thereunder; | inspector |

out of service	(j) “out of service” means the status of a driver who is in violation of hours on duty or driving time as set out in these regulations;
recreation vehicle	(k) “recreation vehicle” means a vehicle designed as mobile accommodation or as self-propelled mobile accommodation and used as transportation for personal and recreational purposes without compensation and includes but is not limited to cabin trailers, collapsible cabin trailers, tent trailers and camping trailers;
sleeper berth	(l) “sleeper berth” means sleeping accommodation provided in a commercial vehicle which is designed, constructed and maintained in accordance with good industrial practice;
twenty-four hour period	(m) “twenty-four hour period” means a period of any twenty-four consecutive hours beginning at the time designated by the carrier for the terminal from which a driver is normally dispatched.
Determination of consecutive days	(2) Any reference in these regulations to a number of consecutive days means a number of consecutive days beginning on any day and at the time designated by the operator for a twenty-four hour period. (EC226/89)
Application	<p>2. These regulations do not apply to a driver of the following:</p> <ul style="list-style-type: none"> (a) any two or three-axle commercial vehicle that is used for the transportation of primary products of a farm, forest, sea or lake, provided the driver or the driver’s employer is the producer of such products; (b) an emergency vehicle; (c) a commercial vehicle transporting passengers or goods with the object of providing relief in the case of an earthquake, flood, fire, famine, drought, epidemic, pestilence or other disaster; or (d) a recreation vehicle. (EC226/89)
Hours on duty	<p>3. The hours on duty of a driver include the time spent by such driver</p> <ul style="list-style-type: none"> (a) inspecting, servicing, repairing, conditioning or starting his commercial vehicle; (b) driving his commercial vehicle; (c) travelling as one of two drivers, except the off-duty time the driver spends resting in the sleeper berth in a commercial vehicle; (d) participating in the loading or unloading of a commercial vehicle; (e) inspecting or checking the load of a commercial vehicle; (f) waiting, at the request of the carrier, for the driver’s commercial vehicle to be serviced, loaded or unloaded; (g) waiting for the driver’s commercial vehicle or load to be checked at a customs or weighing check point;

- (h) travelling as a passenger in a motor vehicle, at the request of the carrier, to a work assignment that will begin before he has had eight consecutive hours off duty;
- (i) waiting at an en route point because of an accident or other unplanned event; or
- (j) performing any other work in the capacity of or employ of a carrier. (EC226/89)

4. (1) Subject to section 5 and sections 8 to 12, a carrier shall not permit a driver to drive, and a driver shall not drive Maximum hours on duty

- (a) more than thirteen hours following at least eight consecutive hours off duty;
- (b) after being on duty fifteen hours following at least eight consecutive hours off duty;
- (c) after completing sixty hours on duty during any period of seven consecutive days;
- (d) after completing seventy hours on duty during any period of eight consecutive days; or
- (e) after completing one hundred and twenty hours on duty during any period of fourteen consecutive days.

(2) For the purpose of applying clause (1)(e), a driver shall take twenty-four consecutive hours off duty prior to completing seventy-five hours on duty. (EC226/89) Twenty-four hours rest period

5. (1) Once in every seven consecutive days, the number of hours off duty that a driver shall have immediately prior to driving may be reduced to not less than four consecutive hours if the total number of hours off duty prior to commencing the next period of driving duty in the following twenty-four hour period is not less than eight hours plus the number of hours by which the driver's hours off duty was reduced. Reduction of off duty hours

(2) The number of occasions during any period of seven days when the driver does not have at least eight consecutive hours off duty prior to driving shall not exceed one. (EC226/89) *Idem*

6. Notwithstanding subsection 5(1), where an inspector is of the opinion that a reduction in the number of hours off duty permitted by subsection 5(1) is jeopardizing or likely to jeopardize the safety or health of a driver, the Registrar may direct that the driver have a specified number of hours off duty immediately prior to driving. (EC226/89) Direction by Registrar

7. A driver of a commercial vehicle equipped with a sleeper berth may accumulate the eight consecutive hours off duty in two periods of rest if neither of those periods is less than two hours provided that the aggregate of the driving time immediately preceding and immediately Sleeper berth rest

following a sleeper berth rest period does not exceed thirteen hours in total. (EC226/89)

Modification of
hours under permit

8. (1) The Registrar may, upon application in writing by a carrier, issue a permit extending any of the limitations set out in subsection 4(1) and permit shall have effect for a period not exceeding one year.

Factors considered
and terms of permit

(2) In issuing a permit under subsection (1) the Registrar may consider any factors he considers relevant with respect to the carrier's need for a permit and may impose such conditions as he considers necessary to ensure that the issue of the permit will not jeopardize the safety or health of any person.

Suspension

(3) The Registrar may, for cause, suspend a permit issued under subsection (1). (EC226/89)

Out of service,
declaration

9. Any inspector may notify and declare any driver out of service whom the inspector finds to have driven a commercial vehicle for longer than the maximum period permitted under these regulations. (EC226/89)

Effect of
declaration

10. No carrier shall permit a driver who has been declared out of service to drive any commercial vehicle and no driver who has been declared out of service shall drive a commercial vehicle unless and until such time as the requirements of these regulations are met. (EC226/89)

Exception,
emergency

11. A driver may, in the case of an emergency, exceed the driving time and total hours on duty set out in section 4 in order to complete a trip or to reach a place offering safety for vehicle occupants and security for the vehicle and its cargo. (EC226/89)

Exception, adverse
driving conditions

12. A driver may in the case of adverse driving conditions exceed the driving time and total hours on duty by not more than two additional hours only if the normal trip could be completed within the driving time permitted by these regulations. (EC226/89)

DAILY LOGS

Obligation to keep
daily log

13. Subject to section 21, every driver shall, for each twenty-four hour period, maintain a daily log in duplicate and every carrier shall ensure that each driver employed by the carrier maintains a daily log in duplicate each day. (EC226/89)

Information to be
recorded

14. The daily log referred to in section 13 shall include the following information:

- (a) date;
- (b) driver's name;
- (c) odometer reading;

- (d) total distance driven per twenty-four hour period;
- (e) truck, bus or tractor number plate or unit number;
- (f) trailer number plate or unit number;
- (g) name of carrier;
- (h) signature of driver;
- (i) name of co-driver;
- (j) twenty-four hour period starting time, if different from 12 midnight;
- (k) main office address for each carrier; and
- (l) total hours in each duty status. (EC226/89)

15. A graph grid in the form laid out in Schedule 1 shall be incorporated into a handwritten daily log and be completed for each driver's daily log in accordance with the following procedures:

Graphical representation of hours of duty

- (a) a continuous line shall be drawn between the appropriate time markers for each twenty-four hour period on the graph grid, recording the periods of time when the driver is off duty, in a sleeper berth, on duty not driving, and driving;
- (b) the name of the city, town, village or highway location and province or state where each change of duty occurs shall be recorded; and
- (c) the total hours in each duty status shall be entered to the right of the graph grid and the total of such entries shall equal twenty-four hours. (EC226/89)

16. Where a driver has been issued fuel receipts, bills of lading, shipping documents and accommodation receipts during a current trip, the driver shall retain them and produce them for inspection on the demand of an inspector. (EC226/89)

Production of documents

17. No carrier shall operate or permit a driver to drive a commercial vehicle and no driver shall drive a commercial vehicle unless the driver has in his possession,

Possession of documents while driving

- (a) copies of his daily logs for the preceding seven consecutive days; or
- (b) if operating in compliance with clause 4(1)(e), copies of the driver's daily logs for the previous fourteen consecutive days; and
- (c) the driver's current daily log completed to the time for which the last change in duty status occurred. (EC226/89)

18. The information set out in section 14, except for clauses (d), (f) and (l), shall be completed by the driver prior to the commencement of driving and the information in clauses (d) and (l) on completion of work. (EC226/89)

Time when information recorded

- Exception for short trips
- 19.** A driver shall be exempt from maintaining a daily log while operating a commercial vehicle not destined beyond a radius of 160 kilometres of the location at which the driver reported for work if the driver returned to that location and was released from work within fifteen hours and the operator maintains and retains for a period of six months accurate records for the following:
- (a) the time the driver reports for work each day;
 - (b) the total number of hours the driver is on duty each day; and
 - (c) the time the driver is released from duty each day. (EC226/89)
- Log of driver normally exempted
- 20.** Every driver who is normally exempt under section 19 from maintaining a daily log shall, when the driver is driving a commercial vehicle in circumstances where the driver is required to make a daily log, enter in his log the total hours on duty for the period of seven consecutive days preceding the day on which the driver is required to make a daily log. (EC226/89)
- Electronic, etc. devices
- 21.** A driver may use an electronic or mechanical trip device for recording the driver's hours of work if
- (a) the driver has in his possession true copies of his daily logs for the preceding seven or fourteen consecutive days, which logs may consist of information stored in and retrievable from the automatic on-board recording device, handwritten or computer-generated logs or any combination thereof;
 - (b) the device is capable of displaying
 - (i) hours of driving and hours on duty for each day the device is being used,
 - (ii) available on duty hours remaining in the seven or fourteen days depending on which is applicable or total hours on duty accumulated for the seven, eight or fourteen consecutive days, whichever is applicable, and
 - (iii) the sequential changes in duty status and the times the changes occurred for each day the device is being used;
 - (c) the driver is capable of preparing a daily log containing the information required under section 15 from the device for each day of the seven or fourteen consecutive days, whichever is applicable;
 - (d) the system automatically records and indicates whenever the device has been disconnected;
 - (e) the device automatically records time and movement for the vehicle;
 - (f) all hard copies of the daily logs are signed by the driver certifying the information to be true and correct; and
 - (g) the carrier and driver shall have daily log forms available in the commercial vehicle for the driver's use in preparing daily logs. (EC226/89)

- 22.** Every driver shall, where the driver's services are utilized by more than one carrier during a calendar day, forward as soon as is reasonably practicable to each of the carriers for whom the driver worked that day a copy of his daily log. (EC226/89) Work for two or more carriers
- 23.** Every driver shall, within twenty days of working as a commercial vehicle driver, forward the original of each daily log for that week to his home terminal or to the principal place of business of the carrier for whom the driver worked. (EC226/89) Carriers log to be forwarded to home terminal
- 24.** Every carrier shall ensure that all daily logs and supporting documentation are kept for a period of not less than six months and are readily available for inspection upon request by any inspector at the carrier's principal place of business. (EC226/89) Inspection
- 25.** Daily logs kept pursuant to section 24 may be retained at the home terminal of the driver who submitted them for not more than thirty days and shall then be forwarded for retention to the carrier's principal place of business. (EC226/89) Retention
- 26.** It is an offence for any driver Offence
- (a) to exceed the hours on duty specified in the regulations;
 - (b) to have a daily log that is not up to date;
 - (c) to fail to have a daily log book in his possession or to maintain a daily log book;
 - (d) to fail to have in his possession completed daily logs for previous days of his work cycle;
 - (e) to falsify documents required by these regulations;
 - (f) to falsify daily log books;
 - (g) to have two or more daily logs for the same time period;
 - (h) to refuse to produce on demand of an inspector the daily log book or documents required to verify hours of work;
 - (i) otherwise to contravene these regulations. (EC226/89)

SCHEDULE 1

