



National Safety Code **BULLETIN**

Re: On-duty time and Transportation Network Services

Purpose

The information that follows is designed to provide clarification for Transportation Network Service (TNS) companies and TNS drivers as it relates to the interpretation of the definition of "on-duty."

Regulations

Division 37 of the *Motor Vehicle Act Regulations* (MVAR) provides the following definitions:

- "on duty"** with respect to a driver and "on-duty time" means the period that begins when a driver begins work or is required by the carrier to be available to work, except when the driver is waiting to be assigned to work, and ends when the driver stops work or is relieved of responsibility by the carrier, and includes driving time and time spent by the driver
- (a) inspecting, servicing, repairing, conditioning or starting a commercial motor vehicle,
 - (b) travelling in a commercial motor vehicle as a co-driver, when the time is not spent in the sleeper berth,
 - (c) participating in the loading or unloading of a commercial motor vehicle,
 - (d) inspecting or checking the load of a commercial motor vehicle,
 - (e) waiting for a commercial motor vehicle to be serviced, loaded, unloaded or dispatched,
 - (f) waiting for a commercial motor vehicle or its load to be inspected,
 - (g) waiting at an en-route point because of an accident or other unplanned occurrence or situation,
 - (h) resting in or occupying a commercial motor vehicle for any other purpose, except
 - (i) time counted as off-duty time in accordance with section 37.13,
 - (ii) time spent in a sleeper berth,
 - (iii) time spent in a stationary commercial motor vehicle to satisfy the requirements of sections 37.13.02 and 37.13.03, and
 - (iv) time spent in a stationary commercial motor vehicle that is in addition to the off-duty requirements of section 37.13.03, and
 - (i) performing any work for any carrier.

"off duty time" means any period other than on duty time.

Determining If a Driver is On-Duty

The definition of on-duty explains that ““on-duty time” means the period that begins when a driver begins work or is required by the carrier to be available to work, except when the driver is waiting to be assigned to work...”

For a TNS driver it may seem that being logged into the app means they are “available to work” and therefore are “on-duty.” However, a driver logged into a TNS app is actually considered to be “waiting to be assigned to work.”

The rationale for why a driver logged into the app is considered “waiting to be assigned to work” relies on the notion that a person can be logged into the app but still pursue their own interests and has no responsibility to the carrier. When offered a trip, the driver has the option of accepting it or not. Once the driver accepts a trip, the driver is at that point, “available to work.” As such, a TNS driver will be considered “on-duty” once they have accepted a trip in the app.

Specific examples of when a TNS driver is “on-duty” includes, but is not limited to:

- performing pre and post trip inspections, as required under MVAR 37.22
- fueling and cleaning the vehicle
- time spent taking the vehicle to have a commercial vehicle inspection performed
- time spent providing inspection reports, violation tickets, road side inspections or drivers abstracts to the TNS company directly or though the app
- stocking the vehicle with passenger amenities such as snacks and beverages
- time spent performing any work for any carrier
 - If a driver is unsure the company or individual is a carrier and holds an NSC safety certificate, please enquire. Carriers are found in all industries and sectors. Some unexpected examples of businesses that may be carriers due to the vehicles they insure may include:
 - School districts
 - Provincial and local governments, such as first nations bands and municipalities
 - Fire departments
 - Retirement homes
 - Daycare providers

In addition to the on-duty activities described above, it is important to note that driving time is also an on-duty activity. Division 37 defines “driving time” as “the period of time that a driver is at the controls of a commercial motor vehicle when the engine of the motor vehicle is in operation.” (MVAR 37.01)

Additional Resources

For questions related to requirements for TNS companies or drivers that are not related to Division 37, we recommend the following resources:

Inquires related to commercial vehicle inspection intervals for TNS vehicles and Taxis contact the Vehicle Inspections and Standards Program via the www.CVSE.ca website.

General information provided by the Passenger Transportation Branch visit their website at:

<https://www2.gov.bc.ca/gov/content/transportation/vehicle-safety-enforcement/services/passenger-transportation/transportation-network-services>

Inquiries related to insurance requirements, visit the ICBC website at:

<https://www.icbc.com/insurance/commercial/Pages/ride-hailing.aspx>

Should you have any further questions or regarding the National Safety Code Program or Division 37 of the MVAR, please contact the NSC Program Office at (250) 952-0576 or via email at NSC@gov.bc.ca, and ask to speak with the NSC Program Advisor.

Regards,



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