

8850.8950 DRIVERS DECLARED OUT OF SERVICE.

Subpart 1. **Authority to declare drivers out of service.** A person authorized by Minnesota Statutes, chapter 221, or by other law, to enforce chapter 221 and the rules of the commissioner adopted under authority of that chapter is authorized to declare a driver out of service and to notify the carrier of that declaration, on finding at the time and place of examination that the driver has violated the out-of-service criteria in subpart 2.

Subp. 2. **Out-of-service criteria.** A driver shall not drive after being on duty for the maximum periods permitted by part 8850.8900 or after being declared out of service under Code of Federal Regulations, title 49, section 392.5, paragraph (c).

A driver required to maintain a record of duty status under part 8850.8900, subpart 1, shall not fail to have a record of duty status current on the day of examination and for the previous seven consecutive days; except that a driver failing only to have possession of a record of duty status current on the day of examination and the previous day, and who has completed records of duty status for the previous six days up to the day before examination, will be given the opportunity to make the duty status record current.

Subp. 3. **Responsibilities of carriers.** A carrier shall not require or permit a driver who has been declared out of service to operate a motor vehicle until that driver may lawfully do so, nor shall a carrier require a driver who has been declared out of service for failure to prepare a record of duty status, to operate a motor vehicle until that driver has been off duty for eight consecutive hours and is in compliance with this part. The consecutive eight-hour, off-duty period may include sleeper berth time.

Subp. 4. **Form.** A carrier shall complete the "Carrier Certification of Action Taken" portion of the driver, vehicle, and equipment checklist form, described in part 8850.8350, and return the copy of the form to the Minnesota Department of Transportation, Office of Motor Carrier Services within 15 days following the date of examination. If the carrier mails the form, delivery is made on the date it is postmarked.

Subp. 5. **Responsibilities of the driver.** A driver who has been declared out of service shall not operate a motor vehicle until that driver may lawfully do so.

A driver who has been declared out of service for failing to prepare a record of duty status shall not operate a motor vehicle until the driver has been off duty for eight consecutive hours and is in compliance with this part.

Statutory Authority: *MS s 221.031; 221.141*

History: *13 SR 38; L 2001 c 213 s 30*

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