

## **CVSA ISSUES GUIDANCE ON OUT-OF-SERVICE CRITERIA FOR HOURS OF SERVICE CHANGES**

On June 27<sup>th</sup>, the Commercial Vehicle Safety Alliance (CVSA) issued a memo to its members clarifying how the out-of-service criteria would be impacted by the changes to the hours-of-service rules that took effect on July 1<sup>st</sup>. The memo confirms that drivers may be placed out-of-service for 60 or 70 hour violations when such violations result from a non-qualifying restart (e.g., did not include two nighttime periods from 1 - 5 a.m. or began within 168 hours of the beginning of the prior restart). CVSA suggests drivers not be placed out-of-service when discovered to have violated the new 30-minute rest break requirement. They recommend such violations may be noted on the roadside inspection report, but will not result in the driver being placed out-of-service.

However, in its memo, CVSA noted the potential for inconsistencies between States – when drivers are found in violation, they may be required by some States to cease operating and immediately take a 30 minute break. After checking with the Maine State Police Commercial Vehicle Enforcement Unit (Troop K), MMTA has confirmed that their guidance to Maine enforcement officials will be to rely upon the plain language of the new regulations – a driver is not permitted to drive if more than 8 hours have passed since the end of the driver's last off-duty period of at least 30 minutes.

So while it might not technically be an out-of-service violation, a driver who is out of compliance with this provision in Maine will not be allowed to drive until they have taken the requisite off-duty break. To make things even more convoluted, it appears each state can make their own determination as to whether they will allow a driver to continue, or make them wait until they have taken at least 30 minutes off. Either way, this scenario will not result in an official out-of-service order affecting the carrier's safety records.

Due to the potentially inconsistent message that results from this memo, it is likely that CVSA's position on rest break violations may change as the organization is due to revisit the issue at its upcoming Annual Conference in September.