

# IMPACTS OF THE NEW 34-HOUR RESTART RULE



The Maine Motor Transport Association has heard from many of its members that the new 34-hour restart provision that went into effect on July 1, 2013 is having negative impacts on businesses, drivers, customers and safety.

In an effort to quantify these negative impacts, we asked members to submit the practical realities they face due to the new rule.

The following are the responses we received prior to the submission deadline.

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Issues with the new 34 Re-Start Rule:

Let's say a driver begins a 34 hour break at 7 p.m. on Saturday. He/she has the required periods of 1 am to 5 am Sunday and Monday. He/she then begins work Monday at 6 am. At this point the driver is legal. This week, the driver's work week ends Wednesday evening at 7 pm due to the fact that he/she has Thursday and Friday scheduled as vacation days. He/she now has 4 consecutive days off; Thursday, Friday, Saturday and Sunday. This should be an adequate rest period for the driver. On Monday the driver begins the work day at 4 am. At this point he/she is in violation because the last 34 hour re-start began on a Saturday at 7 p.m. and ended on a Monday at 5 am. He/she did not get the required 168 hours (7 Days) from the beginning of one 34 hour break with the required two periods of 1 am to 5 am in the 168 hour cycle.

So, after 4 full days off, under the new 34 Hour Re-Start rule, the driver did not get a full 70 hours re-set to start his/her week. Had the driver waited one more hour and began the day at 5 am instead of 4 am, his/her clock would re-set and he/she would have 70 hours available to work for the week. Because of the complexity of the new re-start rule, many of the drivers do not discover that they did not get a 70 hour re-set until they are on the road. At this point they are forced to work under the old 70 hour 8 day rule because they started their clock at 4 am. Under this rule, at midnight tonight the driver picks up whatever hours he/she worked 8 days ago. If the driver was off 8 days ago he/she gets no time back. If the driver worked 6 hours 8 days ago, then 6 hours is all he/she can work the next day making it very difficult for the driver to make a day's pay and for the company to generate the revenue needed to conduct business. Once the re-cap is started the driver is stuck working limited hours for the week or take an addition 34 hours off to satisfy the requirements and re-set the 70 hour clock.

On other occasions the drivers may have ended their work week a day early so that they could be home for a doctor appointment, to attend an event at one of their children's school or to attend a family get together. They then wanted to start the following work week a day early to make up for the lost day, but were not able to do so because of the re-start. Now they are forced to take extra time off to satisfy the 34 Hour Re-Start Rule while losing a day's pay in the process or work a re-cap which can limit earning potential for the week.

In an Industry that is already suffering from a shortage of qualified driver's, our company has implemented a per day compensation guarantee in an effort to hang onto the drivers we now have. We have also purchased an additional 15 power units at a cost of millions of dollars to help offset lost productivity. These extra expenses are a direct hit to the profit margin of our company and do not include the costs of recruiting and training newly hired drivers.

Operationally we have seen an increase in issues related to on time performance. We are re-scheduling more pick-up and delivery appointments now than before the implementation of the 34 Hour Re-Start Rule.

The problems our drivers are having with this new rule are not just on occasion. This is an issue we have to deal with several times a week and it affects all aspects of our business. Productivity, revenue and driver's wages have all suffered under this new regulation in the FMCSA's attempt to provide adequate rest for the driver. In reality the drivers are feeling more stress and pressure as they attempt to make a paycheck I to support their family. If the idea is to make sure that a driver can work no more than 70 hours per week, the rule could be simplified by saying that a driver can only re-set his 70 hour clock by taking 34 hours off once every 168 hours or by taking 48 consecutive hours off. This would alleviate the concern for the driver working the extra 12 hours per week the rule was written for and would simplify the convoluted process that we are operating under at this time.

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Our fleet miles adjusted for vacation days and holidays were down 9.03% Q3 compared with Q2.

Our adjusted fixed operating cost per mile was up 2.16% Q3 compared with Q2. (excludes fuel, driver compensation and any other variable costs)

Base driver compensation is calculated on a cents per mile x miles run basis. Driver per mile earnings were down 9.03% Q3 compared with Q2.

The change to 34 hour restart calculations is the primary driver of the reduction in fleet utilization, reduced driver earnings and increased fixed cost per mile.

Complying with the restart regulation has forced dispatch to assign shorter trips to drivers if their restart prohibits them from leaving out on a Sunday, Monday or Tuesday as normally required for the longer trips.

An average 6% of customer deliveries each week have been delayed one or two days beyond requested date due to driver available hours impacted by the 34 hour restart change. That number includes for hire carriers delaying deliveries due to driver restart issues.

Drivers are dissatisfied the with the restart regulation. Drivers have stated that they gain no additional rest benefit while losing earnings.

100% of our drivers have expressed dissatisfaction with the new 34 hour restart and 30 minute break rules.

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The new 34 hour restart provision has brought many things to us, and most of them are unnecessary headaches. We are a long haul trucking company based out of Northern Maine which makes the 34 hour restart even harder to deal with than most. The loads we deliver take at least 7 hours just to drive them out of the state. Depending on how far away the delivery point is sometimes it is almost impossible to complete a restart over the road. Some of our drivers have been delivering loads to California and when they end up reaching their 70 hour limit it is usually a day or two before they are allowed to begin their 34 hour restart. This is causing drivers to be sitting around for an extra day or so which is causing drivers to be away from home more than necessary and also not generating any miles or revenue.

It has also made it close to impossible to be able to do more than one trip during a work week. We have drivers take off to deliver a load in New Jersey come back, then deliver another load to New Jersey and on their way home they run out of hours 250 miles away from home. Instead of having the leisure of being able to restart when it is most convenient for the driver, they are forced to take two days off 250 miles away from their home. This is slowing down production for the trucking companies as well as creating days lost for the driver resulting in lost revenue. This lost time is unnecessarily keeping drivers away from home and from spending time with their families.

The 34 hour provision has had a negative impact on the trucking industry in many ways. It was set into place to ensure that drivers get adequate rest which in the end would make travel safer. I'm not positive if this is being accomplished to the extent that it was intended to. When it comes down to it, the 34 hour restart provision is frustrating drivers, dispatchers, shippers, receivers etc. as well as contributing to making it near impossible for anyone in the trucking industry to do their jobs. Thank you for your time and consideration.

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The impact on the driver:

First and the clearest of all points, we have shortened the 14 hour day to 13.5 hours due to the mandatory 30 minute break prior to being on duty 8 hours. Our average length of haul is 375 miles so we very rarely if ever have a driver drive for 11 hour straight, but it does reduce the driver's available time to be productive and generate revenue for the company and themselves.

The restriction of one 34 hour restart within 168 hours or 7 day period combined with the 34 hour restart that must contain 2 periods between 1am and 5am is impacting our drivers as well. Drivers no longer have the ability to take a day off during the week under the new HOS rules. Prior to July 1<sup>st</sup> a driver could take a day off during the week to attend a family function or a Doctors appointment and be able to make up that day off on Saturday and not affect that weeks or the following weeks paycheck.

Prior to the change, if a driver started their 34 hour reset at 1700 on Saturday, they would have a fresh 70 hours at 0300 Monday morning. Under the new rule, this day is lost and cannot be made up by the end of the drivers normal pay week period. Furthermore, if that driver does not shut down by Saturday morning at 1am they can not claim a 34 hour reset until Monday morning at 0500 resulting in what could be up to a 51.75 hour restart. This extended amount of time of 17.75 hours over and above the previous HOS 34 hour restart, equates into at a minimum of one complete 14 hour period of wages and revenue for the driver and owner of the assets. In our case, our drivers are getting a 34 hour reset once every 2 weeks. This is mostly due to us not having dedicated freight lanes and to fulfill our commitment to our customers, our drivers are forced to recap the 2<sup>nd</sup> week.

In consideration of “recapping”, the major hurdle is that the driver’s 1st and 2nd day of their 8 day cycle are off duty days then they regain nothing, forcing them into what could be a 96 hour restart to meet the 168 hour rule and the 2 periods of 1am and 5am.

The impact on the company:

- Since the change in the HOS we have seen a 14% drop in miles driven, this is due to the inability to move freight 7 days a week because of the one 34 hour reset within 168 hours rule and that the reset must consist of two periods of 1am and 5am.
- We have had to decline loads that pick up or deliver on Saturday and Sunday because of the 34 hour reset rules (as stated above we are unable to utilize drivers on Saturday because of the two periods between 1am and 5am). This would account for the 14% drop in miles driven.
- While hiring more drivers and adding more equipment would address the issue, this would only reduce the margins of the company as the company would be running the same miles with additional assets. This would not be economically feasible.
- We have lost experienced drivers to other companies and private fleets that can offer better pay and benefits, but we have also lost experienced drivers that have decided to leave the Transportation Industry altogether. Drivers are very frustrated with the new HOS rules. In October of 2005 the HOS changes, to be specific the 14 hour rule, made it more difficult to earn a decent paycheck by the end of the week because shippers and consignees are not sensitive to the 14 hour rule. They do not understand or choose to ignore that once a driver starts their clock 14 hours later, whether they have driven 11 hours or not, they can no longer drive a CMV without taking a 10 hour break. If this driver is detained at a shipper or consignee for more than 3 hours they are losing wage earnings as well as the asset’s revenue. Current rules now forces the driver to retreat to a safe haven to park for a half hour prior to being on duty for 8 hours. This event is most difficult to achieve without receiving a summons for illegal parking.
- Prior to the July 1<sup>st</sup> we were hoping to give a pay increase to our entire fleet because of their outstanding performance in bringing all of our CSA scores below the critical threshold. Due to

the current loss in production and revenue, we have had to put a pay increase on hold until which time adjustments are made to the current program. We will continue to look at every possible option to enhance our compensation package for our drivers.

In closing; we know that our drivers are the backbone of our company and industry and we feel that the sacrifices that they make should allow them the ability to earn a decent living. Under the HOS changes made in 2005 we have seen a significant drop in CMV related crashes and fatalities and the numbers continue to drop. The HOS rules prior to July 1<sup>st</sup> were working as they stand and if we want to see a more rapid drop in CMV related fatalities and crashes we need to start educating the motoring public on how to behave around CMV's. Based on the latest study conducted by the ATA 81% of fatalities and crashes involving a CMV were caused by the non commercial vehicle. We all want to commit our drivers to be compliant with the rules and laws handed down by the FMCSA and we are constantly striving for a safer and healthier industry. Under the new HOS and the current rate of freight I fear we will be unable to satisfy our drivers, customers and the demand of the American consumer.

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Ed Thayer, Inc is a truckload carrier with 35 trucks. We have customers from Maine to Virginia. Our drivers generally leave Maine on Sunday night and return on Friday night or early Saturday morning. With 70 hours of work available to them, they are able to make three rounds each week to the New Jersey, Pennsylvania area.

The majority of our customers want freight both picked up and delivered between 7:00 A.M. and 4:00 P.M. Monday through Friday. To make this an efficient operation, our drivers need to leave before 5:00 A.M. in order to arrive at our out of state customers on time. One problem with the new ruling that requires a driver to be off duty for two consecutive nights with two sleep periods between 1:00 and 5:00 A.M. is that a driver must leave Maine and arrive in the metropolitan areas during the busiest traffic time. He is not only slowed by this traffic, but he is forced to use more of his log time for the same trip. After arriving at his destination at mid-day, he is then forced to hurry his trip in order to pick up at the next customer or wait until the next day.

We believe it is important to our drivers that they are able to return home each weekend, but the new rules have significantly reduced their ability to continue to make a good wage. A driver who was accustomed to making six rounds in two weeks is now reduced to five. That equates to a 17% decrease in pay. A driver leaving Sunday night or earlier Monday morning can make deliveries on Monday, Wednesday, and Friday, returning home after midnight on Saturday morning. The following week that same driver cannot leave Maine until Monday. He has missed the opportunity to make any Monday deliveries and can only make two rounds and still end up at home for the weekend. By the time he arrives back in Maine on Friday, there is no opportunity to make a third trip even though he may have ample log time.

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We have given our drivers a pay increase to help ease the pain, but this is not enough to make up for what they have lost. Therefore we lose the driver and the revenue. A 17% reduction in revenue also has a profound effect on our bottom line. We still need to maintain the same number of trucks, the same overhead, and the same employee benefits.

We ask that you reconsider the overnight portion of the new rule. While we agree that a driver needs to have a 34 hour period of time off, the inflexibility of when he can do that is hurting all concerned: the driver, the trucking company, and the customer.

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The purpose of this letter is to explain the practical effects of the revisions to 49 CFR Part 395 Hours of Service from the standpoint of H.O. Bouchard, Inc. H.O. Bouchard is a 100 truck motor carrier based in Hampden, ME. It also helps to understand that a major portion of H.O. Bouchard's work in the summer is derived from the transportation of liquid asphalt to paving plants in and around New England. The company also transports cement powder to structural concrete plants in the same area. These plants work with Mother Nature, not against. They may get rained out on a Wednesday or Thursday and then choose to work Saturday and Sunday. They also do some switching from day to night work.

It also helps to understand why the re-start of hours-of-service is so important. Prior to 2002, there was no re-start provision. The amount of time a driver had available to work tomorrow was calculated over a moving, 8-day schedule that was very challenging for dispatchers to track. They may assign a driver a schedule for tomorrow that would take 10.5 hours and then discover that the driver only has 9.75 hours available for the day. This is not the fault of the customer. The construction season is short in New England. They can't stop pouring bridge foundations and paving roads because we lack three quarters of an hour.

With the advent of the re-start provision, dispatchers knew that drivers started with 60 or 70 and then deducted the hours worked today from that schedule. It was much easier to predict. The end of the week was the time that hours of service may become a limit. Now it is Monday that may pose the biggest problem. In what other industry can you be off-duty from Saturday morning until Monday morning and still may not be able to go to work?

The changes that were adopted on July 1, 2013 complicate a process that had been working very well for drivers, motor carriers and customers. The complications came about because of two seemingly simple changes:

- A re-start cannot start until 168 hours (7 days) after the start of the last re-start.
- A re-start must also include two consecutive periods off between 1am and 5am.

Now when a paving company works Saturday, he has to have the liquid asphalt. He will want to start early Monday morning as usual. He expects to have liquid asphalt in his tank at normal summer starting hours of 5 to 6 am. The carrier hauling the liquid, in order to get a re-start, cannot start until 5am. If the asphalt is moving 75 miles to get to the plant, the first load can't arrive legally until mid morning. This also has the unintended consequence of having the trucks entering the port areas to load at the same time as the regular commuter traffic, an undesirable situation.

The new changes to Part 395 have presented a costly and cumbersome solution to a problem that did not exist.

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With the newly - implemented hours-of-service changes made effective July 1, 2013, we appreciate the opportunity to share our learning's since the change and how this has impacted our organizations ability to operate today.

As an operations overview, we service six supermarket banners consisting of approximately 1,500 stores from Maine to Florida. Service to our retail supermarkets require distribution centers and transportation operations function seven days per week, twenty-four hours per day and three hundred and sixty four days per year. Delivery drivers typically work ten to eleven hours per day. Our store density relative to our distribution centers would describe the fleet as a regional short – haul operation. Many drivers will complete a two trip day meaning; a driver delivers a trailer load consisting of two to four supermarket deliveries then returns to the distribution center for a second trailer load of two to four supermarket deliveries. The ability to logistically utilize one driver, one tractor, two trailers to service this many stores in a work day.

**The ability to utilize our resources (drivers and equipment) just as efficiently as before?**

Driver resources and the ability to utilize as before have been challenging. Night operations have been impacted more negatively than day operations as our drivers have to now take close to (50) fifty hours for a reset to accommodate the two rest periods of 0100-0500 in a week. By necessity of being in compliance many locations ( depends on geographical density and length of haul ) required 15% of the drivers by location begin their scheduled day two hours later in order to meet the thirty four hour reset. While transportation makes the adjustments with driver scheduling and equipment needs, those we service are unable to adjust receiving schedules due to hours of operation for the community serviced as well, associate labor standards which has impacted on-time performance.

**The ability to satisfy customers with delivery schedules requiring additional staffing?**

Varies due to the size of the distribution center and geographic density. We've experience some locations having to add six drivers while other locations have added twenty drivers to continue the retail delivery services we did before. Based on our average compensation with benefits, these expenses will be increased by multiple millions of dollars in the northeastern region alone. On boarding these new

drivers will have an additional expense this year of well over \$100,000. We've also experienced the additional expense of hiring temporary driver services while prospecting for new drivers as well as contracting with other carriers to offset the driver deficit to meet service levels required.

### **How has this affected our ability to offer good jobs and benefits to our employees?**

Current drivers have realized a 5% decrease in earnings due to the 13.5 hours as opposed to the 14 hour ruling. The requirement for drivers to take a thirty minute break now creates the inability to return to the distribution center for their second preferred load and the 34 hour restart eliminating their ability to work a sixth day in most cases as they would not have the two rest periods prior to their next scheduled shift.

At this point of the program challenged to understand the value of the 34- hour restart. However, the many would argue / debate the required thirty minute rest break after eight hours of service.

- For drivers that worked typically less than 13.5 hours before the new rule, their workday has now been extended requiring the driver to stay with the truck for an additional nonproductive thirty minutes.
- The timing and planning of where to take the rest stop is difficult. Many times the driver has few choices with where to stop and park a truck safely. Often in unsafe and unsecure areas. Or, find them rushing and racing the clock to get to a location with space to accommodate the unit.
- Attempting to fit the thirty minute break into a certain route of travel may mean taking the break before a driver may truly even need one or benefit from an off duty period. We need to understand a fully alert driver sitting in an idle cab, watching the clock wondering if in this instance highway safety is truly being served.
- Longer work days, no increase in wages, the challenges of having a safe place to stop for the mandatory rest break creates anxiety, affects moral and over time has more of a negative impact to the drivers health and wellbeing. We can understand many considering a career change.
- A poll was conducted with drivers at one of our facilities where 75% responded that they now feel more fatigued after their thirty minute break then before the ruling was established.
- The thirty minute break in eight hours may be more beneficial to those in a long-haul operation. In the case of the short-haul regionalized carrier where drivers are making multiple stops and physical activity appears counter intuitive to the objective designed and intended to improve.

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The new restriction requiring 168 hrs to elapse between 34 hr resets is nothing more than a regulatory trap for drivers to negotiate. The 34 reset option was introduced to allow drivers to get a full measure of restorative sleep before beginning another week, and it works. Drivers are more rested and dispatchers can plan their work weeks. The new restriction makes it impossible to plan ahead because a driver does not know when (or if) he will start his restorative rest period until he gets home, so the dispatcher cannot plan a couple days in advance because the driver is not home yet.

The reasoning to apply this extra restriction was that some (very few) drivers could actually drive a couple hours more than 70hrs in 8 days, under certain conditions. The reason the reset option was introduced was to allow drivers to get restorative rest, and drivers along with the whole industry embraced the option because it works. The reason to restrict this option and to effectively make it unusable had to be political, as there is no reasoning behind it other than a few drivers are driving a few extra hours. As a consequence, many drivers have reverted to the old 70hr/8 day rule and they DO NOT get their restorative rest. They end up driving an average of 8.75 hours a day, 7 days a week.

As a company, the confusion and the impossibility of planning has cost us 5-10% in productivity forcing us to hire more drivers, trucks being out on the road instead of the yard when the driver is resting, increased idling and congestion at rest stops. All this with no projected benefit in safety.

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**ANONYMOUS**

**PROJECTED NEW HOS EFFECT ON MAINE-BASED AUTO TRANSPORTER**

1 reset per 7 days (168 hours) – this means there can be no reset in FL. Drivers have to leave with a full 70 hours and be able to get back within it or operate on the 70 hr / 8 day rule and the whole fleet has to be on the same scheduled work days to allow for a rotation.

**OLD WAY (prior to 7/1/13 change):**

1. Off by Thursday night, leave Saturday am. Get loaded in FL by Tuesday pm. Reset Wednesday. Head north Thursday and deliver up through Saturday pm or Sunday am. Reset again Sunday/Monday and run local the following week, get off by Thursday pm, reset Friday and leave Saturday am. We had a good rotation for our drivers where they went “long” one week, worked “local” the next week and then went “long” again the following. This got them regular home time. This allowed our service and maintenance to be performed during a regular work week.

2. Off by Thursday night, leave Saturday am, get loaded in FL and get back home in 70 hrs by Thursday night to reset again on Friday and leave Saturday am again. This worked well for our drivers that wanted specific weekends off and would go long 2 weeks and then work local the following etc.
3. Either of these options allowed us to maintain the same level of service to our Florida operations while getting our drivers the required rest breaks while negotiating their 70 hr/8 day and 34 hr reset rules.

**NEW WAY (since 7/1/13 change):**

Off by Thursday night, leave Saturday am. Get to FL and back within 70 hours.

Or run the 70 hr / 8 day getting back to ME on Sunday/Monday.

There is no chance for back to back runs to FL with the 70hr / 8 day operation.

If the driver gets back on Sunday, his restart won't be up until Tuesday and he won't be eligible to start another restart until the following Sunday so no chance at going to FL. There is no way we can keep a rotation of 4/5 trucks a week, plus Atlanta, plus North Carolina with this new law and meet service requirements.

This new law is going to force us to do something:

1. Reduce the number of FL trips we can handle in a week?
  - a. Results in *significant* reduced income per week per truck.
2. Force us to increase our fleet size to accommodate the existing workload?
  - a. Capital expenditures prohibit expansion.
3. Require a limit to the number of serviced stops in New England and FL?
  - a. Should be able to cover Maine pick up & delivery service via wedge trailers so line haul drivers only have a couple stops on the way out of New England at increased cost of labor and increased risk of damage to customer's vehicles. The more times we have to handle them on and off a truck, the more chances there are of damage.
4. Change our scheduled fleet departure days to Sunday resulting in loss of revenue?
  - a. This will create a service problem for loads to Atlanta. We can't load on Sunday and have the cars at the auction on Monday am. 1,280 miles Greene, Palmer, MA – Atlanta, GA would cost us thousands of dollars in losses each week.
  - b. This will create a loss of revenue on North Carolina runs because we can't load the trucks from Maine into Massachusetts, deliver and reload Canton, MA on Sunday am and have the vehicles in Statesville by Monday pm. 1020 miles Greene, Canton, MA – Statesville, NC loss \$990.00 would create significant weekly losses.
5. Suspend Friday service system wide allowing for all trucks to reset and leave Saturday?
  - a. This would eliminate service to our largest local dealer account so it's not an option.

**ACTUAL IMPACT TO COMPANY SO FAR**

We had to suspend service to a weekly shipping customer because we cannot meet the scheduled departure and arrival commitments, resulting in a loss of income.

We had to stop loading our outbound trucks from Maine to Mass on the NC runs, also resulting in a loss of income.

We have had to add drivers to the local fleet to support pickup and delivery service north of our facility so we don't have to run our larger carrier fleet on Fridays, creating additional overhead expenses.

We had to adjust our delivery schedule into Florida this fall, delaying delivery to customers by 1 day. We have approximately 600 "Snow Birds" travelling to Florida every year for the winter and they book flights based on our delivery schedule. The net result has been increased costs to many of those Maine residents via Taxi Rides, Car Rentals and Flight Changes etc so they can get to their seasonal properties from the airport or change their arrival to correspond with ours. We can't quantify the actual cost because our customers incur the costs associated with those alternate arrangements.

We have lost earnings potential on each of our northbound trucks that are scheduled to turn back to Florida because they do not have the time in their 70 hours to go out of route to get additional vehicles coming north. The new schedule requires they get home by Friday night so they can start their reset and leave Sunday. Even if they don't turn back to Florida, they have to be home by Friday night so the following week, they can start their reset on Friday night.

We have lost flexibility in scheduling our drivers in the event of equipment breakdown or driver illness. If a truck is scheduled to depart on Sunday and there is an issue with his truck or his health, we don't have the driver resources to fill in and maintain service commitments. There has been no financial impact to us as of yet, but as these things happen and continue to create service failures, customers will be inclined to seek alternate service providers.

We have had to add a shift to our garage maintenance staff on Saturday so we can prepare the fleet for Sunday departures, whereas we used to be able to perform all maintenance Thursday and Friday for the Saturday departures.

The average cost of a new Car Hauler Tractor Trailer exceeds \$250,000 so adding to our fleet is simply not an option. With increased costs, reduced revenue and more driver and customer dissatisfaction, there is not a company in the world that would invest more and expect less in return.

**NET WEEKLY COST TO COMPANY: \$Thousands**

**NET MONTHLY COST TO COMPANY: \$Tens of Thousands**

**NET YEARLY COST TO COMPANY: \$Hundreds of Thousands**



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**IMPACT STATEMENT**

**New 34-Hour Restart Bill Negatively Impacts Over the Road Truck Operations Nationwide - 168 Hour Rule needs Revision...**

*Hartt Transportation Systems, Inc. is a family- owned, intermediate to long haul trucking company in business in Maine for the past 65 years, with a service territory mostly east of the Mississippi and includes the Canadian Maritimes. We have faced many challenges over the years with changes to the hours of service regulations, but this most recent change by far has impacted our ability to utilize our equipment and human resources efficiently.*

*The new rules have contributed to:*

- 1 Additional Driver Fatigue. If the intent of the bill is to reduce driver fatigue, then it falls woefully short of the vision, since it compels the driver to continually recap in order to earn a living.. The 168hour mandate between restarts complicates the life of a driver forcing them to recap instead of taking a 34 hour break as it comes. Further, the bill appears to ignore the nature of hours or irregular patterns by which freight moves in the trucking industry. Shippers expect pick-ups and deliveries at all hours of the day and night without exception to what day of the week and these rules are making it harder to serve.*
- 2 Inflexible Work Hours Reducing Driver Pay. Drivers need to be able to have some flexibility with their schedule that the 168 hour mandate ignores. This new regulation only allows for reset once every seven days. For instance, if a driver needs to be home on a Thursday and started their week on Sunday. They are not able restart until exactly 168 hours from the beginning of their last break. What safety or economic rationale does it serve for the driver to be home 4 days rather than come home, do their business and go back to work?*
- 3 Turnover increased 21.9 % since new rule effective date.*
- 4 The change in hours of service rules results in a potential loss of 8-10 hours of available work time for each driver per week. This has reduced driver's pay by as much as 11%-14% per week per driver.*
- 5 Potential reduction in taxable income of 9.1%.due to productivity losses.*

## Discussion

Hartt Transportation Systems, Inc. resources are not utilized as efficiently since July 1, 2013 due to early morning drivers who must take the (2) 1-5am periods to be able to work.

*Ex: Drivers who start anywhere from 1am – 4am are not able to do a sixth day to work as they still have 8-10 hours left on their 70 hours. Before the new restart provisions, they had to do a 34 hour reset and then could go back to work.*

The work force has tightened up with the hours that drivers have available. In order to satisfy the new 34 hour reset combined with the 168 hour restrictions, work is staggered to try and meet customer demands. The new hours of service has made it difficult to have more drivers available. Utilizing the (2) 1-5am periods limits the number of drivers available to work daily.

The new hours of service has put a strain on the company's budget as more drivers have been hired to fill in schedules and customer needs. These drivers fill in the same work that our current drivers could do prior to the new hours of service taking effect. Revenue goes down due to training costs, and new drivers not making the revenue as they are learning the requirements of their job vs. a driver that has been with the company knows the requirements of the position. The 168 hour restrictions have created animosity amongst drivers. Previous to the provisions if a driver was broke down for a few days they could start their restart and gain back time. Now however, a driver cannot gain back time until he/she has completed their seven days to begin the restart.

To accommodate the new hours of service, more drivers are needed to fill in time slots that current drivers are now unable to fulfill. Hartt Transportation Systems, Inc. policy requires potential drivers to have a minimum of one year over the road experience, as well as a minimum of one year tanker experience for those running under the tanker division. Hiring drivers to fill in on our tanker division takes longer as it is not easy to find drivers that are tanker certified.

Experienced drivers are actually losing out on quality time spent at home with their families as the new hours of service requiring the (2) 1-5am start times affects when a driver can make it home. The new rule has also limited revenue they bring home as prior to the rule change they could work the six days. Now, drivers are required to get in the (2) 1-5am restart before they can start again. Drivers are sacrificing quality time that was previously spent at home in order to comply with the 168 hour restrictions.

In closing, the more drivers hired to fill the demands of our customers also results in more injuries, accidents, and health care needs. With that also comes a higher premium paid out as well as legal fees. This affects not only the company but the employee's as well. Higher insurance premiums will affect a driver financially as they are already not making the money they made prior to the new hours of service regulations.

## **NOTE:**

Hartt Transportation Systems, Inc. undertook a thorough analysis of the impact of the new 34 hour restart provisions that included the following components:

- Driver turnover;

- Cost of advertising;
- Labor costs, including qualifying fees, recruitment costs, orientation costs, training costs and referral bonuses;
- Fixed asset costs due to idle equipment;
- Profit lost due to idle equipment;
- Decreases in revenue per tractor;
- Increases in safety/insurance/legal costs;
- Production losses due to new drivers;

While the increased costs for this company to implement the new regulations is obviously considerable, the impact on their 415 drivers and countless support staff is also important to note. When they asked their drivers what they thought of the new regulations, responses were unanimously negative and included comments that reflect the feelings of most professional truck drivers affected by the new rules.

One driver said that *“the restart provision was one of the reasons for leaving Hartt Transportation Systems, Inc,”* which is a sentiment that speaks to the fact that his pay suffered and his frustration grew due to the new constraints.

Other drivers mentioned the negative impact of a reduction in their time at home with their families. They also noted their inability to have a standard routine so that time at home was consistent and predictable due to the need to take two periods off between 1am and 5am to reset. This has created some difficulties with family life, and as one driver put it: *“it hurts them (his family) as I am spending more time on the road, but not making as much money.”*

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***Raymond J. Veilleux, President***

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The biggest problems we have with the new 34 Hour Restart law is two-fold. First it is almost impossible for us to pre-plan our deliveries at the specific time to allow us two nights from 12:00 to 5:00 AM. We always deliver our Stockton, CA loads on Friday mornings. Under the old rule we would take 34 hours off and have the time to reload on Saturday afternoon and then come to Portland for the following Thursday morning.

With the new rule we have to sit in California until Monday to reload, delivery Sunday mornings in Portland. We cannot utilize our drivers or equipment. To make matters worse, we can only take a 34 hour break once in 7 days. The drivers have already sat one weekend in California, and we are forced to pay them for this without being able to get those funds back.

The second problem is with only being allowed one 34 hour break per week. What we have done in the past is deliver in Portland on Thursday morning. The driver returns to Waterville and a local driver pre loads on Friday morning. After our driver takes his 34 hour break he can leave on Saturday morning for his cross country run. This is impossible as now the driver has to wait sometimes two extra days for the restart, again because of the new regulations.

The new law is counter-productive and makes no sense. Taking a 34 hour break under the old regulation worked. It gave us the time to rest. And when we arrived back in Maine we would take another 34 hour break before heading out again. I just do not see how you can legislate rest when it is not needed. Our bodies are human, not machines.

Call me if you need additional information.

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### ***ANONYMOUS***

Yes our company has been affected by this change to the restart. The 168 hour portion is causing great impact on Services to our customer, Wages to our Drivers, Excessive Time off to our Local Drivers, and increased cost to the company by lower utilization of equipment and more admin costs monitoring HOS on local drivers

Some Examples:

Our OTR drivers are gone 4 to 5 days at a time. If they reset and get back on the 4<sup>th</sup> day after a shorter trip then they can not reset as not having met the 168 hours and they are forced to recap when leaving out on next trip and take additional time off on the road to stay under 70 hours costing additional fuel, loss of utilization, lost wages to driver.

We have lost over 3 Part time Local Drivers who work during the week for a full time employer. They now cannot work for us and their employer as working the 6<sup>th</sup> day with us does not allow them to reset with the New restart provisions as before causing us to fail on covering additional loads to our customer, lost revenue to us and lost wages to our Part Time Drivers.

Our full time local drivers, approx. 8 of them working Monday thru Friday can no longer assist us on the weekends to cover loads as they now change the 168 hours for following week if they work a 6<sup>th</sup> day on a Saturday and the next week potentially run out of hours mid week as they are forced to recap and not use the 34 hour restart as it was before July 1, 2013.

If a Holiday is mid week and we give our drivers a day off then then ask them to work the 5<sup>th</sup> day again the 168 hours effect schedules, wages, and lost production and utilization of equipment.

9 full time drivers that work Local starting at 1 am to 3 am 5 days a week have to stop work before 1 am on the 5<sup>th</sup> shift or they will no longer be available.

After having 48 hours off and will lose a whole shift or again recap hours and then push out the 168 hour window the following week. Causing irregular shift changes, lost wages, lost load coverage or Revenue and again utilization of equipment.

We are forced to look for part time help to fill in gaps, these part-timers are not as familiar with equipment and routes causing higher maintenance costs and longer routes times, Cost to company to keep a driver compliant will increase regarding physicals, License and Background checks, enrollment in Drug & Alcohol Program. And turnover is greater as a Part Timer will seek to find Full Time employment with benefits or if company gave Part Time benefits a higher cost to company.

Unable to structure labor and equipment to be fully utilized to meet customers changing requirements due to Seasonal changes, Tourists Seasons, and logistic needs.

All in all these new HOS changes to the 34 hour restart provision has decreased productivity, decreased driver wages, decreased utilization of available part time driver pool, increased costs to consumer thru higher costs incurred by carrier, increased potential crashes with more unstable work force.