

Draft Regulation

Highway Safety Code
(chapter C-24.2)

Act to amend the Automobile Insurance Act,
the Highway Safety Code and other provisions
(2022, chapter 13)

Hours of driving and rest of heavy vehicle drivers — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the draft Regulation to amend the Regulation respecting the hours of driving and rest of heavy vehicle drivers, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The main purpose of the draft Regulation is to detail the requirement for operators to equip heavy vehicles under their responsibility with an electronic logging device, and to detail the requirement for heavy vehicle drivers to use the device to produce a record of duty status in which their hours of service and hours of rest have been entered. The draft Regulation determines exemptions from those requirements and specifies the actions to be taken by operators and drivers should the electronic logging device malfunction. The draft Regulation also determines the conditions under which a driver or an operator must make available or forward records of duty status to peace officers, the content of malfunction registers and the system of accounts for devices, as well as the documents required to be carried in each heavy vehicle equipped with an electronic logging device.

Further purposes of the draft Regulation are to define the supporting documents that must be retained to account for the driver's activities, and to clarify various rules pertaining to hours of service and rest. A consequential amendment is also made concerning the duration of a permit to depart from hours of driving and rest.

Study of the draft Regulation has shown that, for Québec enterprises as an industry, direct costs annualized over a period of 10 years will be approximately \$112.2M, although over the 10-year period there will be annualized administrative paperwork savings estimated at \$143.6M. On balance, the resulting net annual efficiency gain for the industry as a whole is \$31.4M.

Further information on the draft Regulation may be obtained by contacting François Fortin, Director General, Direction générale de l'expertise légale et de la sécurité des véhicules, Société de l'assurance automobile du Québec, 333, boulevard Jean-Lesage, E-4-34,

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Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Nadia Fournier, Director, Direction des relations gouvernementales et du soutien administratif, Société de l'assurance automobile du Québec, 333, boulevard Jean-Lesage, N-6-2, case postale 19600, succursale Terminus, Québec (Québec) G1K 8J6; email: nadia.fournier@saaq.gouv.qc.ca. The comments will be sent by the Société to the Minister of Transport.

FRANÇOIS BONNARDEL
Minister of Transport

Regulation to amend the regulation respecting the hours of driving and rest of heavy vehicle drivers

Highway Safety Code
(chapter C-24.2, s. 519.21.1, 2nd par., and s. 621,
1st par., subpars. 12, 12.0.1, 12.0.2, 12.1, 12.1.0.1,
12.1.0.2, 12.1.0.3, 12.1.0.4, 12.2, 12.2.1, 12.2.2, 12.2.3,
12.2.4, 12.4, 12.5 and 39)

Act to amend the Automobile Insurance Act,
the Highway Safety Code and other provisions
(2022, chapter 13, s. 76, pars. 4 to 8, 11 and 13)

1. The Regulation respecting the hours of driving and rest of heavy vehicle drivers (chapter C-24.2, r. 28) is amended in section 1

(1) by inserting the following definition after the definition of “hours of service”:

““malfunction” means any event resulting in the automatic recording in an electronic logging device of a malfunction code appearing in Table 4 in Schedule 2 to the Technical Standard; (*défaillance*)”;

(2) by inserting the following definitions in alphabetical order:

““electronic logging device” means any device or technology that automatically records a driver's hours of driving and that is certified by an accredited certification body under the Commercial Vehicle Drivers Hours of Service Regulations (SOR/2005-313); (*dispositif de consignation électronique*);

“supporting document” means any one of the following documents received or prepared by a driver in the course of their duties or received or prepared by an operator:

(a) any electronic mobile communication record reflecting communications between a driver and an operator transmitted through a driver call-in or fleet management system;

(b) any payroll record or equivalent document that indicates payments to the driver;

(c) any government-issued document indicating the location of the heavy vehicle;

(d) any reports, receipts, records or other documentation relating to the load of the heavy vehicle, including any bill of lading, itinerary, schedule or equivalent document that indicates the origin and destination of each trip;

(e) any reports, receipts, records or other documentation relating to the servicing, repairing, conditioning, fuelling, inspection or rental of the heavy vehicle; and

(f) any reports, dispatch or trip records, receipts, or other documentation indicating the date, time, or location of the heavy vehicle during a trip, including arrival and departure times. (*document justificatif*);

(3) by striking out the definition of “daily log”;

(4) by replacing the definition of “hours of service” by the following definition:

““hours of service” means the period that begins when a driver begins work, including the time when the driver is required by the operator to be available at the work site, and that ends when the driver stops work or is relieved of responsibility by the operator. The period of hours of service includes hours of driving and time spent by the driver

(a) inspecting, servicing, repairing, conditioning, fuelling or starting a heavy vehicle;

(b) travelling in a heavy vehicle as a co-driver, when the time is not spent in the sleeper berth;

(c) participating in the loading or unloading of a heavy vehicle;

(d) inspecting or checking the load of a heavy vehicle;

(e) waiting before and while a heavy vehicle is serviced, loaded or unloaded;

(f) waiting to be assigned to work;

(g) waiting before and while a heavy vehicle or its load is inspected and, if relevant, the time spent necessary for the remedial actions to be taken;

(h) waiting before and while the driver’s requirements are assessed;

(i) waiting at an en-route point because of an accident or other unplanned occurrence or situation;

(j) performing any other work at the request of an operator; and

(k) performing yard moves of a heavy vehicle that is not on a public road within a terminal, depot or port; (*heures de travail*);

(5) by inserting the following definition in alphabetical order:

““record of duty status” means the record in which a driver records the information required under section 30.1 or sections 31 and 32, as applicable, and that contains the grid in Schedule II; (*rapport d’activités*)”;

(6) by inserting “28.1, 28.4 and” in the definition of “home terminal” after “For the purposes of sections”.

2. Section 2 is amended

(1) by replacing “daily logs” in the definition of “establishment” by “records of duty status”;

(2) by inserting the following definition in alphabetical order:

““Technical Standard” means the Technical Standard for Electronic Logging Devices published by the Canadian Council of Motor Transport Administrators, as referred to in the Commercial Vehicle Drivers Hours of Service Regulations (SOR/2005-313); (*norme technique*)”.

3. Section 4 is amended by replacing “daily log” in subparagraph *iii* by “record of duty status”.

4. Section 14 is amended

(1) by inserting the following after paragraph 5:

“(5.1) the hours of driving in a day do not exceed 15 hours; and”;

(2) by replacing “indicates in the “Remarks” section of the daily log” in paragraph 6 by “indicates in the record of duty status”.

5. Section 15 is amended by replacing “daily log” in paragraph 2 by “record of duty status”.

6. Section 19 is amended by replacing “indicates in the “Remarks” section of the daily log” in subparagraph *f* of subparagraph 1 of the first paragraph by “indicates in the record of duty status”.

7. Section 24 is amended by replacing “daily logs” in the second paragraph by “records of duty status”.

8. Section 26 is amended by striking out “, which shall not exceed one year.”.

9. Section 27 is amended by replacing “daily log” in paragraph 3 by “records of duty status”.

10. The Regulation is amended by inserting the following chapter after section 28:

**“CHAPTER III.1
ELECTRONIC LOGGING DEVICE**

28.1. The operator shall ensure that every heavy vehicle under the operator’s responsibility is equipped with an electronic logging device that meets the requirements of the Technical Standard, except in the case of

(1) a vehicle that is the subject of a rental agreement of not longer than 30 days that is not an extended or renewed rental of the same heavy vehicle;

(2) a vehicle manufactured before model year 2000;

(3) a vehicle driven to be delivered, travelling unloaded, unless the load is a vehicle being transported by means of the saddle-mount method that is part of the delivery, and is delivered

(a) by a manufacturer to a car dealership;

(b) by a car dealership to a purchaser or lessee; or

(c) by a car rental enterprise for an inventory adjustment from one branch to another; or

(4) a vehicle driven within a radius of 160 km of the driver’s home terminal and the driver returns to the home terminal each day to begin a minimum of 8 consecutive hours of rest or to begin a minimum of 6 consecutive hours of rest in the situation described in subparagraph 2 of the first paragraph of section 19.

A vehicle referred to in subparagraph 4 of the first paragraph does not cease to be exempted for the sole reason that the driver is unable to return to the home terminal on the same day because of adverse driving conditions.

If an operator authorizes a driver to perform yard moves off a public road within a terminal, depot or port, the operator shall ensure that the electronic logging device has been configured so that the driver is able to indicate those moves.

28.2. The operator shall create and maintain a system of accounts for electronic logging devices that is in compliance with the Technical Standard and that allows each driver to record their records of duty status in a distinct and personal account and that provides for a distinct account for the hours of service of an unidentified driver.

28.3. The operator shall ensure that each heavy vehicle it operates that is equipped with an electronic logging device carries an information packet containing a current version of the following documents:

(1) a user’s manual;

(2) an instruction sheet for the driver describing the technological means supported by the electronic logging device and the steps required to make available or forward the data with respect to the driver’s hours of service to a peace officer;

(3) an instruction sheet for the driver describing the measures to take in the event that the electronic logging device malfunctions; and

(4) a sufficient number of records of duty status in paper form to allow the driver to record the information required under sections 31 and 32 for at least 15 days.

28.4. If a driver becomes aware of the fact that the electronic logging device is displaying a malfunction code appearing in Table 4 in Schedule 2 to the Technical Standard, the driver shall notify the operator as soon as the vehicle is parked.

The operator shall, within 14 days after the day on which it was notified of an electronic logging device malfunction by the driver or otherwise became aware of it, or at the latest, upon return of the driver to the home terminal from a planned trip if that return exceeds the 14-day period, repair or replace the electronic logging device.

The operator shall maintain a register of electronic logging device malfunction codes noticed on the electronic logging devices installed or used in the heavy vehicles it operates. The register shall contain the following information:

(1) the name of the driver who noticed the malfunction code;

(2) the name of each driver that used the vehicle between the time the malfunction code was noticed and the time the electronic logging device was repaired or replaced;

(3) the make, model and serial number of the electronic logging device;

(4) the registration plate number or vehicle identification number of the vehicle in which the electronic logging device was installed or used;

(5) the date when the malfunction code was noticed and the location of the vehicle on that date, as well as the date when the operator was notified or otherwise became aware of the code;

(6) the date the electronic logging device was replaced or repaired; and

(7) a concise description of the actions taken by the operator to repair or replace the electronic logging device.

For each electronic logging device for which a malfunction code was noticed, the operator shall retain the information referred to in the third paragraph for a period of 6 months from the day on which the electronic logging device is replaced or repaired.”

11. The heading of Chapter IV is replaced by the following:

“RECORD OF DUTY STATUS”.

12. Section 29 is amended by replacing “daily log” in the first paragraph by “record of duty status”.

13. Section 30 is amended by replacing “daily log” in the portion before paragraph 1 by “record of duty status”.

14. The Regulation is amended by inserting the following after section 30:

“**30.1.** The operator shall require the driver to record all the information associated with the records of duty status using an electronic logging device, in accordance with the Technical Standard. The driver is required to comply with that requirement.

The following information shall be recorded by the driver:

(1) the date;

(2) the driver’s name and, if the driver is a member of a team of drivers, the names of the co-drivers;

(3) the identification code assigned to the driver;

(4) the time when the day begins if different than midnight;

(5) the cycle followed by the driver;

(6) the number of the registration plate of the motor vehicle or the unit number entered on the registration certificate;

(7) the name of the operator and the addresses of the home terminal and the establishment of the operator by whom the driver is employed or otherwise engaged;

(8) the heavy vehicle’s location description, if it is not automatically drawn from the electronic logging device’s geo-location database;

(9) if the driver was not required to keep a record of duty status immediately before the beginning of the day, the number of hours of rest and hours of service that were accumulated by the driver during each day without that requirement during the 14 days before the beginning of the day;

(10) if applicable, the reasons for any excess hours or deferral of hours of rest in accordance with this Regulation;

(11) if the driver became aware during the day of a malfunction code appearing in Table 4 in Schedule 2 to the Technical Standard,

(a) the malfunction code;

(b) the date and time at which the malfunction code was noticed; and

(c) the time at which the driver notified the operator of the malfunction code; and

(12) any annotation necessary to complete the record of duty status.

At the end of the day, the driver shall certify the accuracy of the record of duty status.”

15. Section 31 is amended

(1) by replacing the portion before subparagraph 1 of the first paragraph by the following:

“**31.** Despite section 30.1, a driver is exempted from the requirement to use an electronic logging device to record all information associated with the records of duty status if

(1) the vehicle being driven is not equipped with an electronic logging device pursuant to any of subparagraphs 1 to 4 of the first paragraph of section 28.1; or

(2) a malfunction code appearing in Table 4 in Schedule 2 to the Technical Standard is displayed on the electronic logging device of the vehicle being driven.

If the driver is exempted as provided in the first paragraph, the operator shall require the driver to enter, and the driver shall enter, the following information in the record of duty status at the beginning of each day:";

(2) by replacing subparagraph 8 of the first paragraph by the following:

"(8) if the driver was not required to keep a record of duty status immediately before the beginning of the day, the number of hours of rest and hours of service that were accumulated by the driver during each day without that requirement during the 14 days before the beginning of the day;"

(3) by striking out "in the "Remarks" section of the daily log," in subparagraph 9 of the first paragraph;

(4) by adding the following at the end of the first paragraph:

"(10) if applicable, the malfunction code.";

(5) by replacing "first" in subparagraph 2 of the second paragraph by "second".

16. Section 32 is amended

(1) by replacing "daily log" in the portion before paragraph 1 by "record of duty status";

(2) by striking out ", in the "Remarks" section of the daily log," in paragraph 1;

(3) by replacing "daily log" in paragraph 2 by "record of duty status".

17. Section 33 is revoked.

18. Section 34 is amended

(1) by replacing "daily log" in the portion before paragraph 1 by "record of duty status";

(2) by replacing "daily logs" in paragraph 1 by "records of duty status";

(3) by replacing "daily log" in paragraph 2 by "record of duty status".

19. The Regulation is amended by inserting the following after section 34:

"**34.1.** A peace officer may request that a driver, pursuant to section 519.10 of the Highway Safety Code (chapter C-24.2), make available or forward to the peace officer, in their existing format, the driver's records of duty status for the current day and the 14 preceding days, the supporting documents for the current trip and, if applicable, a copy of the permit issued under Chapter III.

To make a technology-based document available, the driver shall produce either a display or a printout of the document. To forward such a document, the driver shall send it by e-mail or, if the document is produced using an electronic logging device, by the technological means and in the form determined by the peace officer from among those prescribed in the Technical Standard and supported by the electronic logging device.

A driver unable to forward technology-based records of duty status shall enter the information they contain on records of duty status in paper form."

20. Section 35 is amended

(1) by replacing "daily log, forward the original daily log" in the first paragraph by "record of duty status, forward the original of the record of duty status";

(2) by replacing "daily log" in the portion of the second paragraph before subparagraph 1 by "record of duty status";

(3) by replacing "daily log" in subparagraph 1 of the second paragraph by "record of duty status".

21. Sections 36, 37 and 38 are amended by replacing all occurrences of "daily logs" by "records of duty status".

22. Section 39 is amended

(1) by replacing "daily logs" in paragraph 3 by "records of duty status";

(2) by replacing all occurrences of "daily log" in paragraph 4 by "records of duty status";

(3) by replacing "mutilated or defaced a daily log" in paragraph 5 by "defaced or made illegible a record of duty status";

(4) by adding the following at the end:

"(6) the driver uses an electronic logging device that has a disabled, deactivated, blocked or otherwise degraded transmission or signal reception, or uses an electronic

logging device that has been re-engineered, reprogrammed or otherwise altered so that it does not accurately record and retain the data as required, in such a way that the peace officer cannot establish in those cases whether the driver has complied with the hours of driving and hours of rest requirements under Chapter II or the requirements of a permit issued under Chapter III.”

23. Section 40 is amended by replacing “paragraphs 3 to 5” in subparagraph 4 of the second paragraph by “paragraphs 3 to 6”, and “daily log” by “record of duty status”.

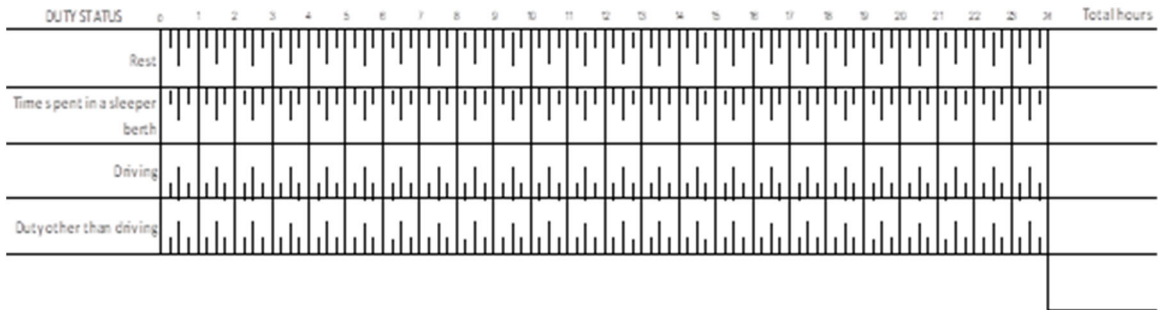
24. Sections 41 and 42 are amended by replacing all occurrences of “daily logs” by “records of duty status”.

25. The Regulation is amended by inserting the following after section 42:

“**42.1.** A peace officer may request that an operator, pursuant to section 519.25 of the Highway Safety Code (chapter C-24.2), make available or forward to the peace officer the documents referred to in section 41 and the register referred to in section 28.4 at the place the peace officer indicates.

To make a technology-based document or register available, the operator shall produce either a display or a printout of the document or register. To forward such a document or register, the operator shall send it by the technological means and in the form determined by the peace officer from among those available to the operator.”

26. The grid in Schedule II is replaced by the following:



27. This Regulation comes into force on the thirtieth day following the date of its publication in the *Gazette officielle du Québec*.

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