

Current 34-Hour Restart Provision

The hours of service (HOS) regulations deal in four areas that determine the maximum time that a driver is able to drive and work in a given period. **All** of the following areas must be accounted for when figuring HOS: (1) the number of hours that he/she can drive in a day; (2) the number of hours that he/she can work (on-duty) in a day; (3) the number of hours that he/she can drive based on the number of hours he/she has been on-duty during the past 7 or 8 days; and (4) the number of hours that he/she is not working (off-duty).

Depending on a carrier’s type of operation, a driver may operate up to either 60 hours in seven days or 70 hours in eight days. This rule, which is called the 60/70 hour rule, is **not** based on a set calendar week such as a Sunday through Saturday schedule, but instead is based on a “rolling” or “floating” 7-day or 8-day period. It is important to understand that if a carrier normally operates each day of the week, which owner-operators typically do, the 70 hour/8 day rule applies to them. In other words, a driver is not allowed to drive more than 70 hours in any 8 consecutive days until he or she has dropped below the 70 hour/8 day limit.

As demonstrated in Table 1 below, if a driver operated on a 70 hour/8 day schedule, the current day, which is Monday in this example, would be the **newest** day in the driver’s 8-day period. The hours worked 9-days ago, which are indicated by a **black circle**, would drop off of the total calculation, giving the driver a total of 5 available hours of on-duty time for Monday before he or she would meet the 70 hour limit. (Note that the 60/70 hour rule holds precedence over the 14- and 11-hour rules.)

Table 1

| | SUN | MON | TUE | WED | THU | FRI | SAT | SUN | MON | TUE |
|------------------------------------|----------|----------|-------------|----------|-----------|-------------|-----------|----------|-----|-----|
| On-duty Driving | 4 | 1 | 8 | 6 | 7 | 8.5 | 7 | 5 | | |
| On-duty Non Driving | 1 | 4 | 3.5 | 3 | 4 | 2 | 3 | 2 | | |
| Total Hours On-Duty per Day | 5 | 5 | 11.5 | 9 | 11 | 11.5 | 10 | 7 | | |

8 consecutive day period

The problem in the example above is that the driver is limited to just five hours of on-duty time for not just Monday, but Tuesday as well because of the rolling recap. The driver therefore could take a voluntary 34-hour restart under the current regulation beginning on Sunday night at 8 p.m. and ending Tuesday morning at 6 a.m. This would ultimately allow the driver to start on Tuesday with a fresh 70 hours for the next 8 consecutive days as shown in Table 2.

Table 2

| | SUN | MON | TUE | WED | THU | FRI | SAT | SUN | MON | TUE |
|------------------------------------|----------|----------|-----|-----|-----|-----|-----|-----|-----|-----|
| On-duty Driving | 5 | 0 | | | | | | | | |
| On-duty Non Driving | 2 | 0 | | | | | | | | |
| Total Hours On-Duty per Day | 7 | 0 | | | | | | | | |

8 consecutive day period

OOIDA

Owner-Operator Independent Drivers Association Foundation, Inc.
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Proposed 34-Hour Restart Provision

While Section 131 in the 2017 Senate Transportation, Housing, and Urban Development (THUD) Appropriations bill attempts to preserve the 34-hour restart provision, it effectively removes the ability to take a true restart. According to language in the THUD bill, “a driver who uses [the] restart rule may not drive after being on duty more than 73 hours in any period of 7 consecutive days.” OOIDA has interpreted this language to mean that the proposed 34-hour restart does not start a driver’s available on-duty hours back to zero, but instead locks in a permanent cap of 73 hours.

Therefore, rather than a driver receiving a fresh 70 hours in 8 consecutive days following a 34-hour restart as the driver did in Tables 1 and 2, the driver would still be subjected to the previous six days worked as demonstrated in Table 3, meaning that if the driver took the same 34 hours off between 8 p.m. on Sunday and 6 a.m. on Tuesday, they would have thirteen on duty hours available on Tuesday.

Table 3

| | SUN | MON | TUE | WED | THU | FRI | SAT | SUN | MON | TUE |
|------------------------------------|----------|----------|-------------|----------|-----------|-------------|-----------|----------|----------|-----|
| On-duty Driving | 4 | 4 | 8 | 6 | 7 | 8.5 | 7 | 5 | 0 | |
| On-duty Non Driving | 4 | 4 | 3.5 | 3 | 4 | 2 | 3 | 2 | 0 | |
| Total Hours On-Duty per Day | 5 | 5 | 11.5 | 9 | 11 | 11.5 | 10 | 7 | 0 | |
| 8 consecutive day period | | | | | | | | | | |

As interpreted, the proposed language in the THUD bill would then eliminate the restart and would simply change it to a rolling recap.