

“Ask The Law”™ offers Q & A’s

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The Trucker
WHERE THE NEWS IS FIRST

Sleeper berth, lane restriction, CMV questions answered by law enforcement officials as of April 2006

Warning: Laws are subject to change without notice

Q. Personal use of a CMV

When deadheading, can you log it as off-duty time for personal use? If so, what do you put in the description section on your log? — Steve, Kentucky

A. (from Senior [Trooper Monty Dial](#), Texas Highway Patrol, Commercial Vehicle Enforcement Division, Garland, Texas):

“The following interpretation was found in Part 395.8 and is an explanation on how a driver can claim off-duty when using his CMV for personal use.



“Question 26: If a driver is permitted to use a CMV for personal reasons, how must the driving time be recorded?”

“Guidance: When a driver is relieved from work and all responsibility for performing work, time spent traveling from a driver’s home to his/her terminal (normal work reporting location), or from a driver’s terminal to his/her home, may be considered off-duty time. Similarly, time spent traveling short distances from a driver’s en route lodgings (such as en route terminals or motels) to restaurants in the vicinity of such lodgings may be considered off-duty time.

“The type of conveyance used from the terminal to the driver’s home, from the driver’s home to the terminal, or to restaurants in the vicinity of en route lodgings, would not alter the situation unless the vehicle is laden. A driver may not operate a laden CMV as a personal conveyance. The driver who uses a motor carrier’s CMV for transportation home, and is subsequently called by the employing carrier and is then dispatched from home, would be on-duty from the time the driver leaves home.

“A driver placed out of service for exceeding the requirements of the Hours of Service regulations may not drive a CMV to any location to obtain rest.”

Q. Passing in California with a CMV

I received an out-of-lane ticket for passing another truck on Interstate 5 southbound in California. Is this a proper ticket for passing a vehicle on a two-lane interstate? — Charles, Kentucky

A. (from [Officer Chris Sahagun](#), California Highway Patrol, Commercial Vehicle Section, Sacramento, Calif.):

“Under California law, Section 22348(c) VC reads: A vehicle subject to Section 22406 shall be driven in a lane designated pursuant to Section 21655, or if a lane has not been so designated, in the right-hand lane for traffic or as close as practicable to the right-hand edge or curb. When overtaking and passing another vehicle proceeding in the same direction, the driver shall use either the designated lane, the lane to the immediate left of the right-hand lane, or the right-hand lane for traffic as permitted under this code.



“If, however, specific lane or lanes have not been designated on a divided highway

having four or more clearly marked lanes for traffic in one direction, a vehicle may also be driven in the lane to the immediate left of the right-hand lane, unless otherwise prohibited under this code. This subdivision does not apply to a driver who is preparing for a left- or right-hand turn or who is in the process of entering into or exiting from a highway or to a driver who is required necessarily to drive in a lane other than the right-hand lane to continue on his or her intended route.

“If a driver was driving on a two-lane highway (two lanes in each direction) and was passing in the No. 1 lane, there would be no violation. If however the driver remained in the No. 1 lane after passing a vehicle and failed to move to the right lane after passing, the driver would be in violation of this section.”

Q. Sleeper berth time

If I take a 10-hour break, can I divide that break in a portion less than eight hours in the sleeper? In other words, can I do six hours in the sleeper and four off duty? — Paul, Oregon

A. (from [Sgt. Jim Brokaw](#), Nebraska State Patrol, Carrier Enforcement Division, Lincoln, Neb.):

“The answer to your question is, yes you can as long as you don’t interrupt the break with any on-duty or driving time. The break can be any combination of off-duty and sleeper berth time as long as it is 10 total hours continuous and uninterrupted. For example, you could be in the sleeper from 8 p.m. to midnight (four hours - sleeper berth) and then go off duty from midnight to 6 a.m. (6 hours - off duty). This totals 10 hours and is considered the equivalent of 10 hours off duty.”



*The Ask The Law™ programs, which are provided as a public service by Alcoa Wheel Products™, are an ongoing educational effort between Ol’ Blue, USA™ and commercial law enforcement agencies. The specific purpose is to have truckers contact Ol’ Blue, USA and pose questions to law enforcement officials relating to safety and legal issues concerning commercial vehicles. Truckers may submit questions at www.askthelaw.org. **Warning: Laws are subject to change without notice. These interpretations were made in April 2006.***

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