

**STATE OF MONTANA
OFFICE OF THE GOVERNOR
EXECUTIVE ORDER NO. 10-2026**

**EXECUTIVE ORDER RECOGNIZING AND ADOPTING THE FEDERAL MOTOR
CARRIER SAFETY ADMINISTRATION HOURS-OF-SERVICE WAIVER FOR THE
INTRASTATE TRANSPORTATION OF GASOLINE AND DIESEL FUEL**

WHEREAS, the Federal Motor Carrier Safety Administration (“FMCSA”), U.S. Department of Transportation, on September 16, 2026, issued a Waiver of certain hours-of-service (“HOS”) regulations found at 49 C.F.R. § 395.3 for motor carriers and drivers transporting gasoline and diesel fuel in interstate commerce, effective September 16, 2026, through December 16, 2026 (“FMCSA Waiver”); and

WHEREAS, the FMCSA Waiver was granted pursuant to the Secretary of Transportation’s authority under the Transportation Equity Act for the 21st Century (Pub. L. 105-178, § 4007, 112 Stat. 107, 401), 49 U.S.C. § 31136(e), and 49 U.S.C. § 31315(a), based upon a determination that adequate and timely gasoline and diesel fuel supplies are critical to the movement of people, products, agricultural commodities, and supplies, and that global supply chain disruptions and anticipated increases in seasonal fuel demand warrant limited, temporary hours-of-service flexibility; and

WHEREAS, the FMCSA Waiver expressly provides, consistent with 49 U.S.C. § 31315(d) and 49 C.F.R. § 381.600, that “States may also adopt the same waiver or policy with respect to operations in intrastate commerce”; and

WHEREAS, the Motor Carrier Services Division of the Montana Department of Transportation (“MCS”) has historically recognized FMCSA hours-of-service waivers and exemptions with respect to both interstate and intrastate motor carrier operations for qualifying shipments; and

WHEREAS, § 61-10-154, MCA, directs the Department of Transportation to adopt, by rule, safety standards for motor carriers and commercial motor vehicles operating in Montana, including motor vehicles or vehicle combinations used in intrastate commerce with a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight of 26,001 pounds or more, and requires that such standards “substantially comply, within allowed tolerance guidelines,” with the federal motor carrier safety regulations; and

WHEREAS, A.R.M. 18.8.1502 adopts the Federal Motor Carrier Safety Regulations, including 49 C.F.R. § 395.3, as the safety standards applicable to commercial motor vehicles and motor carriers subject to regulation by the Department of Transportation under § 61-10-154, MCA, without distinction between interstate and covered intrastate operations; and

WHEREAS, because Montana's incorporation of 49 C.F.R. § 395.3 under A.R.M. 18.8.1502 is not limited to interstate commerce, and because the FMCSA Waiver expressly invites states to extend the same relief to intrastate operations, the Governor may direct MCS to recognize the FMCSA Waiver for qualifying intrastate shipments of gasoline and diesel fuel on the same terms, conditions, and duration as the FMCSA Waiver itself, without the necessity of a separate emergency declaration under Title 10, chapter 3, MCA; and

WHEREAS, ensuring that MCS applies consistent hours-of-service standards to interstate and intrastate carriers transporting gasoline and diesel fuel will avoid regulatory disparity, support the continued efficient distribution of fuel to Montana communities, agricultural operations, and the traveling public, and further the public interest identified by FMCSA in issuing the Waiver; and

WHEREAS, nothing in this Order relieves any motor carrier or driver from compliance with any other applicable federal or state law, rule, or regulation, including those provisions of the Federal Motor Carrier Safety Regulations from which the FMCSA Waiver does not grant relief.

NOW, THEREFORE, I, GREG GIANFORTE, Governor of the State of Montana, pursuant to the authority vested in me under the Constitution and the laws of the State of Montana, including § 61-10-154, MCA, and A.R.M. 18.8.1502, do hereby order as follows:

1. *Recognition and Adoption of FMCSA Waiver.* The State of Montana, through the Motor Carrier Services Division of the Montana Department of Transportation, hereby recognizes and adopts, for purposes of intrastate commerce, the hours-of-service relief granted by the Federal Motor Carrier Safety Administration's Hours of Service Waiver for the Transportation of Gasoline and Diesel Fuel, issued September 16, 2026 (the "FMCSA Waiver"). The hours-of-service limitations set forth in 49 C.F.R. § 395.3, as incorporated by A.R.M. 18.8.1502, shall not apply to a motor carrier or driver operating a commercial motor vehicle in intrastate commerce in Montana to the same extent, and subject to the same terms, conditions, and restrictions, as set forth in the FMCSA Waiver for motor carriers and drivers operating in interstate commerce.
2. *Scope.* This Order applies only to motor carriers and drivers transporting gasoline and diesel fuel. It does not extend to any other class of cargo or commodity, and does not waive,

suspend, or modify any hours-of-service requirement applicable to motor carriers or drivers not engaged in the transportation of gasoline or diesel fuel.

3. *Terms, Conditions, and Restrictions.* All motor carriers and drivers operating under the relief granted by this Order remain subject to all terms, conditions, and restrictions set forth in the FMCSA Waiver, including but not limited to the following:
 - a. A driver must not drive more than 16 hours in any 24-hour period, inclusive of any other applicable exception, waiver, or declaration;
 - b. A driver must take a minimum 6 consecutive hour break in the sleeper berth, or, if no sleeper berth is available, a minimum 8 consecutive hour off-duty break, in each 24-hour period;
 - c. A driver who informs the motor carrier that he or she needs immediate rest must be permitted immediately to find a suitable, safe resting location and must be allowed at least 10 consecutive hours off duty before resuming driving;
 - d. A 10-hour break is required when a driver moves from operations under this Order to normal operations, if the driver's total time in such operations, or a combination thereof, equals or exceeds 14 hours;
 - e. Drivers must maintain a valid commercial driver's license with all necessary endorsements and must not be subject to an out-of-service order, disqualification, or loss of driving privileges;
 - f. Motor carriers or drivers subject to an out-of-service order are not eligible for the relief granted by this Order until the applicable conditions for rescission have been met and the order has been rescinded in writing by the issuing jurisdiction;
 - g. Motor carriers with a conditional safety rating are not eligible for the relief granted by this Order; and
 - h. Drivers must keep a physical or digital copy of the FMCSA Waiver and this Order in their possession while operating under this Order and must present them to law enforcement upon request.
4. *Crash Notification and Recordkeeping.* Motor carriers operating under this Order shall comply with the crash notification and recordkeeping requirements set forth in the FMCSA Waiver, including notification to FMCSA within two business days of any crash, as defined in 49 C.F.R. § 390.5T, involving a driver operating under this Order, and shall collect and, upon request, submit to MCS or FMCSA information regarding drivers operating under this Order.

5. *No Effect on Other Requirements.* Nothing in this Order waives or exempts any motor carrier or driver from any other applicable federal or state requirement, including without limitation the controlled substance and alcohol testing requirements (49 C.F.R. Part 382), commercial driver's license requirements (49 C.F.R. Part 383), financial responsibility requirements (49 C.F.R. Part 387), the Federal Hazardous Materials Regulations (49 C.F.R. Parts 100-180), or vehicle size and weight limitations. All other applicable state and federal regulations shall continue to apply.
6. *Duration.* This Order is effective immediately and shall remain in effect through December 16, 2026, coextensive with the expiration of the FMCSA Waiver, unless the FMCSA Waiver is earlier terminated, rescinded, or extended by FMCSA, or this Order is earlier terminated, rescinded, or extended by subsequent executive order. The Montana Department of Transportation shall notify Motor Carrier Services and affected motor carriers promptly of any change in the status of the FMCSA Waiver.



GIVEN under my hand and the GREAT SEAL of
the State of Montana this 25th day of
September, 2026.


GREG GIANFORTE, Governor

ATTEST:


CHRISTI JACOBSEN, Secretary of State