

## What are the CVOR points for an Hours of Service Violation?

If the charge results in a conviction the operator will be imposed CVOR points against its CVOR. The number of points depends on the type of offence that is alleged.

Act or Regulation and Section #	Points
Reg. 555/06 section 4(1), 5(1), 5(2), 6(1), 9(1), 9(2), 9(3), 13(1), 13(2), 13(3), 13(4) , 18(3), 23(2)	3
Reg. 555/06 section 10(3), 12(1), 12(2), 12(3), 15(3), 16(1), 17(1), 17(2), 23(3)(a), 23(3)(b), 23(4),	2
Reg. 555/06 section 19(1), 19(2), 19(3), 20(1), 20(2), 20(3), 21(2), 21(3), 21(4), 22(1), 22(3), 22(5), 22(6), 23(1)(a), 23(1)(b), 23(1)(c)	2
Reg. 555/06 section 24(1), 24(2), 25(1)(a), 25(1)(b), 26(1)(c), 28(1), 28(2)	3
Reg. 555/06 section 24(4), 26(1)(a), 26(1)(b)	2
Reg. 555/06 section 27(1), 27(2)	5
Highway Traffic Act section 190(2), 190(4), 190(6)	3
Highway Traffic Act section 190(3),	2
Highway Traffic Act section 190(5),	5

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## I've been charged with an Hours of Service violation...

## What do I need to know?



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## What does it mean to be charged?

If you are driving a commercial motor vehicle, and unless you qualify for an exemption, you are required to comply with the Hours of Service laws found in section 190 of the Highway Traffic Act and in Ontario Regulation 555/06 – Hours of Service.

If a law enforcement officer believes that one or more hours of service violations has occurred he/she can lay a charge against the driver or the operator, or both. This means that the named party, known as the defendant, is now liable to a fine, CVOR points or even jail time.

## How does the officer lay the charge?

There are two ways that an enforcement officer can lay a charge against a driver or operator. He/she can issue a Part I Certificate of Offence (ticket) or he/she can issue a Part III – Information (summons).

The driver is served with the ticket or summons by the officer directly. The operator will likely be served by registered mail.

## What do I do once I've been charged?

If the charge was laid by way of a ticket, the defendant has three options: Pay the set fine on the ticket, go to court and plead guilty and ask the judge to lower the fine or request a trial.

If the defendant pays the fine on the ticket or there is a plea of guilty and the fine is lowered, this process will result in a finding of guilt. This means that there will be CVOR

points applied to the CVOR holder and a fine will be imposed.

If the charge was laid by Information (summons), the defendant is required to respond to the charge by attending at the court on the date and time stipulated on the document. If the defendant does not appear there will be a trial date set in the absence of the defendant and the court will not send out notification of the trial date.

At all times, the defendant can engage the services of a legal representative to attend on his/her or its behalf.

Because the legal system is very complex, it is recommended that the defendant consult a legal professional before making any decisions as to which approach will best serve the defendant's interests.

## How can I defend my charge?

The first thing a defendant should do is determine whether or not the prosecutor can prove the case against him/her/it. This involves reviewing the disclosure (The prosecutor's evidence against the defendant).

A defendant facing a charge for an hours of service violation has the option to defend the charge by presenting a due diligence defence. This means that you can show the court evidence that you exercised reasonable efforts to comply with the law, but despite your efforts the violation occurred nonetheless.

A company defending an hours of service violation will need to show that it has a system in place with written policies and active procedures that demonstrate that the

company trained and tested its driver(s) and that it monitored its drivers for compliance with the law.

A driver's due diligence defence will need to explain how the error occurred and what steps the driver took to comply with the law. If the driver had an honest yet mistaken belief as to what the hours of service rules were, he/she will likely need to testify to explain what steps he/she took to educate him/herself on the rules.

## What are the fines for an Hours of Service violation?

At trial, if the charge was laid by way of a Part I (ticket) the fine can range between \$250 and \$1000.

If, however, the defendant pays the fine outlined on the ticket ahead of going to court, this is the set fine and nothing greater will be imposed. Depending on the offence alleged this can range between \$250 to \$400, plus costs and surcharges.

If the charge was laid by way of a Part III (Information) and a conviction is registered the fine can range between \$250 to \$20,000, plus court costs and surcharges. In addition there is the possibility of term of imprisonment up to six months.

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