

**ISSUE NUMBER**

25-004-DRV

**ISSUE NAME**

OOSC, Part I, Item 3. c. Endorsements and Restrictions - "K" Restriction

**STATUS**

Open

Driver-Traffic Enforcement Committee

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In the driver portion of the Out of Service Criteria 3. (c) says operating a CMV without proper endorsements, or in violation of restrictions. Declare driver out of service. How should this apply for the "K" restriction for intrastate only operation? 2 scenarios:

1. A driver with a "K" restriction is completing the intrastate leg of an interstate trip.
2. A driver with a "K" restriction makes an interstate trip and gets stopped on the return leg of the trip in their home state.

In 390.5 we have a definition for intrastate commerce, indicating it is anything that is not interstate commerce and a 3-part definition of interstate commerce that describes commerce that crosses state or national borders. We also have Interpretation Question #6 (390.3) that describes how one should distinguish between intrastate and interstate commerce as the fixed and persistent intent at the time of shipment.

In the field, both of these scenarios are not being handled consistently across the country. Some inspectors see the driver in both scenarios as being in their home state and no longer in violation. Some applying the home state logic will place the driver in scenario #2 OOS but then release the driver immediately because they are in their home state. Others view both scenarios as a violation of the "K" restriction and place the driver OOS.

**JUSTIFICATION OR NEED**

There is a need to handle the driver of a CDL with a "K" restriction in the continuance of an interstate move uniformly across the country.

**REQUEST FOR ACTION**

Add clarifying language to the OOS Criteria to address how the "K" restriction should be enforced. If needed make changes to Safespect for a violation of the "K" restriction that is not OOS.