

Truck Accidents Involving Drivers or Vehicles Under Out-of-Service Orders in Georgia

An Out-of-Service Order Means Someone Was Legally Barred From Continuing the Trip

A roadside inspection can do more than produce a citation. When an enforcement officer finds a driver or commercial vehicle that meets federal out-of-service criteria, the driver, truck, trailer, or other equipment can be barred from continuing until the disqualifying condition is corrected or the required time has passed. If the trip continues anyway and a crash follows, the inspection record can become a major part of the liability investigation.

An out-of-service order isn't proof by itself that the violation caused the collision. A truck might be placed out of service for one defect and later crash for an unrelated reason. But when the prohibited condition is connected to the wreck, the order can establish a much clearer question: who knew the driver or vehicle wasn't supposed to be on the road, and why was it operating anyway?

At Gary Martin Hays & Associates, our [Georgia truck accident lawyers](#) investigate the inspection history behind serious commercial crashes. That can include roadside examination reports, out-of-service stickers, ELD records, repair documentation, dispatch messages, and federal safety data that may never appear in the ordinary police crash report.

Quick Facts About Out-of-Service Orders

- **The Order Can Apply to a Driver or Vehicle:** Federal rules recognize out-of-service orders involving drivers, commercial motor vehicles, intermodal equipment, and carrier operations.
- **Vehicle OOS Conditions Are Serious:** 49 CFR § 396.9 allows a vehicle or intermodal equipment to be placed out of service when its mechanical condition or loading would likely cause an accident or breakdown.
- **Drivers Can Be Ordered Out for HOS Violations:** 49 CFR § 395.13 bars a driver from continuing to drive when specified hours-of-service or record-of-duty-status violations trigger an out-of-service order.
- **The Carrier Can't Simply Ignore the Order:** Motor carriers may not require or permit a driver or vehicle to continue operating while the applicable out-of-service restriction remains in effect.
- **Causation Still Matters:** The prior violation needs to be connected to the crash rather than treated as automatic proof of negligence.

What Does “Out of Service” Mean Under Federal Trucking Rules?

Under [49 CFR § 390.5](#), an out-of-service order is a declaration by an authorized federal, state, Canadian, Mexican, or local enforcement officer that a driver, commercial motor vehicle, or motor carrier operation is out of service under specified regulations or compatible safety criteria.

In practical terms, it means the safety problem has crossed a line. This isn't simply a warning to “get it checked later.” The person or equipment is restricted from continuing operation until the applicable legal requirements are satisfied.

Driver Out of Service	Vehicle or Equipment Out of Service
Often tied to hours-of-service or duty-status violations under 49 CFR § 395.13.	Can result when mechanical condition or loading would likely cause an accident or breakdown under 49 CFR § 396.9.
The driver can't legally continue operating until the out-of-service period or condition is satisfied.	The vehicle or equipment can't be operated until required repairs or corrections are satisfactorily completed.
Evidence can include ELD data, logs, inspection reports, dispatch records, and the driver examination report.	Evidence can include the inspection report, OOS sticker, repair certifications, maintenance history, photographs, and post-crash component inspection.

When Can a Driver Be Ordered Out of Service?

One common route is an hours-of-service violation. [49 CFR § 395.13](#) authorizes specified FMCSA personnel to order a driver out of service when the driver violates defined out-of-service criteria, including driving after exceeding maximum on-duty periods or certain failures involving required records of duty status.

A fatigued driver who has already been told not to continue presents a different evidentiary picture from a driver whose fatigue is only inferred after the crash. The order can establish that an enforcement officer identified a disqualifying problem before the wreck. ELD data and dispatch communications can then show whether the driver and carrier complied.

When [truck driver fatigue and hours-of-service violations](#) are part of the crash sequence, driving-time records can become central evidence.

When Is a Truck or Trailer Placed Out of Service?

Under [49 CFR § 396.9](#), authorized personnel can declare a commercial motor vehicle or intermodal equipment out of service when its mechanical condition or loading would likely

cause an accident or breakdown. The rule provides for an out-of-service vehicle sticker and prohibits operation until the required repairs are satisfactorily completed.

The underlying problems can involve brakes, tires, wheels, steering, suspension, lighting, load securement, or other safety-critical conditions, depending on the inspection. The inspection report is therefore more important than the words “out of service” alone. It identifies the actual defect and gives the legal team something concrete to compare with the crash.

A Prior Out-of-Service Order Doesn't Automatically Prove the Crash Case

Suppose a trailer was placed out of service because of a lighting defect, repaired, documented, and returned to service. Months later, the tractor runs a red light in daylight and causes a collision. The old lighting order may say little about why that crash happened.

Now change the facts. The same trailer was placed out of service for defective brakes, no valid repair was performed, and it rear-ends stopped traffic hours later because the brakes could not produce adequate stopping force. The connection is much stronger.

That distinction keeps the case focused on causation rather than trying to use every safety violation as character evidence. The strongest claim shows what the order required, whether anyone violated it, and how the prohibited condition contributed to the collision.

The Carrier's Knowledge Can Be as Important as the Driver's Decision

A motor carrier may try to distance itself from the violation by saying the driver acted alone. The investigation should test that claim. Dispatch messages can show whether a supervisor knew the driver was out of service. Repair records can show whether maintenance staff were told to clear a truck without fixing the problem. Payroll, route, and telematics records can show whether the company continued moving freight after the order.

A carrier's broader federal record can provide additional leads. A carrier's [FMCSA safety ratings and underlying violation data](#) can point toward roadside inspections, enforcement actions, and specific records worth obtaining.

Which Records Can Prove an Out-of-Service Violation?

An attorney shouldn't rely on a summary from an online safety database when the original records can tell a much clearer story. Important evidence can include:

- **Driver/Vehicle Examination Report:** The roadside inspection report identifies the violations, OOS status, equipment, driver, carrier, date, time, and inspection location.
- **Out-of-Service Sticker or Documentation:** Vehicle OOS markings and photographs can establish that the equipment was formally removed from service.

- **Repair and Certification Records:** These can show whether the cited defect was actually corrected before the vehicle returned to the road.
- **ELD and Duty-Status Data:** For a driver OOS case, electronic logs can show whether the driver resumed operation before being legally eligible.
- **Dispatch and Internal Messages:** Texts, app messages, emails, and dispatch records can reveal what supervisors knew and what instructions were given.
- **GPS and Telematics:** Vehicle movement can establish whether a supposedly out-of-service truck continued traveling after the inspection.

These records should be preserved quickly. Trucking companies and third-party vendors can have different retention systems, and physical equipment can be repaired before an injured person ever sees it. The first days matter because [preserving evidence after a Georgia truck accident](#) can determine whether the original inspection records, electronic data, and physical equipment remain available.

Mechanical OOS Cases Usually Require the Maintenance History Too

A roadside inspector sees the vehicle at one moment. The maintenance file can show how the defect developed. Was the same brake issue reported a week earlier? Did a tire remain in service after repeated pressure problems? Was a steering defect noted and then marked “repaired” without a work order?

That background can make the difference between an isolated failure and evidence of a preventable maintenance problem. [Poor truck maintenance records](#) can expose whether known problems were delayed, skipped, or inadequately repaired.

How Georgia Fault Rules Can Affect the Claim

Even when an out-of-service violation is well documented, defendants may argue that another driver contributed to the collision. [Georgia Code § 51-12-33](#) allows fault to be apportioned and generally bars recovery when the injured person is 50 percent or more responsible for the injury.

That makes objective evidence especially important. The OOS record may prove that a prohibited safety condition existed, while dashcam footage, ECM data, skid marks, witness accounts, and reconstruction evidence show how the crash actually occurred. The legal team needs both parts of the story.

The current text of [Georgia Code § 51-12-33](#) makes that 50-percent threshold and proportional reduction part of the fault analysis.

An Out-of-Service Crash Can Reveal a Decision Made Before the Impact

Some truck crashes are caused by a split-second driving mistake. An out-of-service case can point to something different: a safety problem identified before the collision and a decision to continue anyway. That can move the investigation upstream from the driver's final maneuver to the company decisions that put the truck back on the road.

[Gary Martin Hays & Associates](#) has represented injured Georgians since 1993 and has recovered more than \$1 billion for clients and families. We know how to trace roadside inspection records, maintenance history, electronic logs, and corporate communications when a federal safety order may be part of the crash story.

If you or someone you love was injured by a commercial truck that may have been operating under an out-of-service order, [contact us](#) for a free consultation. We offer representation on a contingency fee basis. That means no upfront costs, and you pay nothing unless we win your case.