



**POE/MC 13-18 FYI**

**DATE:** 11-29-17

**TO:** All POE Personnel

**Key Number(s)**

**FROM:** Reymundo Rodriguez  
Compliance Program Manager

**Program ID, County, Etc.**

**RE:** Idaho Code 49-235

In the past, Idaho Code 49-235 has been utilized by ITD inspectors to “park for repair” drivers who are in violation of Federal laws pertaining to violations of (see [ITD/ISP MOU](#) located in POE Procedure Manual):

- Part 383 – Commercial Driver’s License Standards; Requirements and Penalties
- Part 391 – Qualifications of Drivers
- Part 392 – Driving of Commercial Motor Vehicles
- Part 395 – Hours of Service of Drivers

Upon review with our Legal Section, it has been determined that Idaho Code 49-235 allows “park for repair” only for vehicle violations, and NOT for driver violations. This section provides that a “vehicle” if found to be in an unsafe condition, or the required equipment is not present, or is not in proper repair and adjustment, can be parked for repair and cannot be operated until the “vehicle” and its “equipment” has been placed in proper repair and adjustment.

Additionally, it has been determined that only ISP Officers have the legal authority to place a driver out of service. Therefore, effective immediately, POE inspectors are not to utilize Idaho Code 49-235 to “park for repair” a driver as Idaho Code 49-235 is specific to vehicle and equipment only.

POE inspectors may continue to use Idaho Code 49-235 to place vehicles in “park and repair” for violations of Section 49-235.

Procedure shall be as follows upon discovery of a driver violation meeting out of service criteria:

1. Contact Idaho State Police CVS (ISP) for assistance as ISP CVS can put a driver out of service for an out of service violation.
2. If Inspector cannot obtain ISP assistance, then an Inspector shall cite the customer and explain the ramifications of their violation. Inspectors cannot stop a driver from driving a commercial vehicle away from a POE, but can be a good witness and relay information to ISP as to direction of travel, name of company and driver, vehicle unit and plate number.

Currently ISP and ITD are investigating possible solutions to this issue to determine the best course of action for the future.

I thank you for your patience and adherence to this directive.