



Kansas Motor Carriers Association

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LEGISLATIVE UPDATE

ELECTRONIC LOGGING DEVICES

Before The

Senate Transportation Committee
Senator Mike Petersen, Chairman
Thursday, January 21, 2016

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MR. CHAIRMAN AND MEMBERS OF THE SENATE TRANSPORTATION COMMITTEE:

I am Tom Whitaker, executive director of the Kansas Motor Carriers Association. I appear here this morning representing our 950 member companies and the Kansas trucking industry to brief the Senate Transportation Committee on the latest rulemaking by the Federal Motor Carrier Safety Administration (FMCSA) requiring the use of electronic logging devices (ELDs).

The Moving Ahead for Progress in the 21st Century Act (MAP-21) was approved by Congress and signed by the President on July 6, 2012, it required FMCSA to adopt rules and regulations requiring truck drivers to use ELDs to comply with the Hours-of-Service rules. Truck drivers are limited to 14 consecutive hours on duty and no more than 10 hours driving in a 24 hour period. In addition, drivers cannot be on duty more than 60 hours in a seven day period or 70 hours in an eight day period if the company operates seven days a week. There is a "re-start provision" on the 60 hour and 70 hour rules if the driver takes 34 consecutive hours off duty.

I want to point out that as the ELD rule currently stands, it applies to all interstate motor carriers over 10,000 lbs. gross vehicle weight rating and intrastate hazardous material transporters who's vehicles require placarding. The rules for ELDs are not in effect for other intrastate carriers until they are adopted by the Kansas Corporation Commission. Vehicle drivers exempted by Senate Bill 22 adopted by the Legislature in the 2015 Session and farm registered vehicles will continue to be exempt from the HOS rules and thereby the ELDs rules.

The following pages contain a summary of the ELDs which were adopted on December 11, 2015.



Device Adoption Deadline Date: The rule requires fleets and drivers required to complete paper logs to adopt and use compliant ELDs by December 2017, unless they are currently using automatic on-board recording devices that are grandfathered (see below).

Grandfathering of Existing Equipment: FMCSA will allow fleets and drivers using “ELD-like” devices meeting the current standards for Automatic On-Board Recording Devices (see 49 CFR 395.15) to continue to use such devices until December 2019, two years after the final deadline for adoption of ELDs. If these devices can be modified to meet the ELD specifications (e.g., with a software upgrade) they may continue to be used after December 2019.

Limited Exceptions: The final rule allows limited exceptions to the ELD mandate, including:

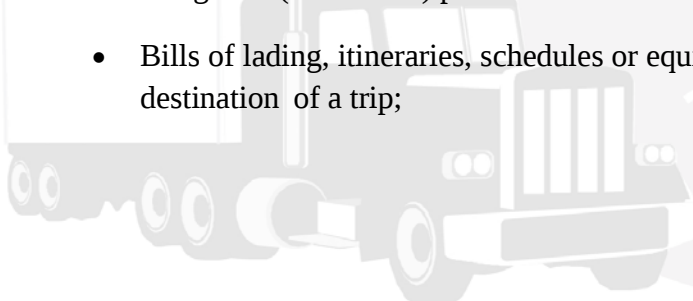
- Drivers who use paper logs for not more than 8 days during any 30 day period;
- Drivers who conduct driveaway-towaway operations, where the vehicle is the product being delivered;
- Drivers of vehicles manufactured before model year 2000 (due to vehicle connectivity concerns; this is a change from the proposed rule);
- Drivers who operate using the logbook timecard exception (i.e. short-haul 100-air mile drivers)

Short Haul Drivers: Drivers who are not required to complete logs because they meet one of the short haul exemptions in section 395.1 (e) of the Federal Motor Carrier Safety Regulations are not required to use ELDs. FMCSA recognizes that these drivers occasionally don’t meet the conditions of these exemptions. In those instances, drivers are required to keep a paper log. Drivers who find themselves in these circumstances more than 8 days in any 30-day period are required to use ELDs.

Location Monitoring: ELDs are required to record vehicle location at every change of duty status and at a minimum of 60-minute intervals. To ensure against harassment and protect driver privacy, the devices will record location during on-duty time at a precision of approximately one mile, and during off-duty time of within ten miles (i.e., will not record exact location but generally where the vehicle is located when used for personal conveyance). Note: Fleets may employ devices that record location more precisely; FMCSA has imposed the one and ten-mile precision limits on information that is reported to enforcement officials when electronic logs are being verified.

Supporting Documents: Because ELDs effectively negate the need for supporting documents to verify *driving* time, FMCSA has implemented new document retention requirements to verify on-duty, not driving time. The final rule requires fleets to retain up to eight supporting documents from several categories (see below) per driver for each 24-hour period:

- Bills of lading, itineraries, schedules or equivalent documents indicating the origin and destination of a trip;



- Dispatch records, trip records or equivalent documents;
- Expense receipts related to on-duty not driving time;
- Text messages, email messages, instant messages or other electronic mobile communications transmitted through a fleet management system;
- Payroll records, settlement sheets or other documents reflecting driver payments.

In order to qualify as a supporting document, a document must contain the following content: driver identification, date, vehicle location and time. If the motor carrier has more than eight documents containing these data elements, they must retain the supporting documents nearest the beginning and the end of the driver's shift. Drivers are required to submit such documents within 13 days of receipt and produce those in their possession to law enforcement upon request. Fleets are required to maintain them in a manner which would facilitate being easily matched to the logs.

Data Transfer: ELDs must be able to transfer data electronically via either A) a "telematics" approach capable of wireless web service; or B) a "local" method capable of Bluetooth and USB 2.0 transfer. In all circumstances, drivers must be able to show a roadside inspection officer a graph-grid of his/her hours of service compliance, either on the ELD's display or on a hard copy paper printout.

Certification: Manufacturers are required to test and certify to FMCSA that their devices meet the new standards. FMCSA will create a public (i.e. Internet) registry of compliant devices and conduct tests to verify manufacturers' claims.

Harassment: The final rule includes several provisions to guard against harassment of drivers. Specifically, the rule prohibits motor carriers from using information from ELDs to pressure drivers into violating regulations. The final rule also requires ELDs to either automatically mute or allow a driver to turn off or mute the volume on the ELD (or the fleet management system with integrated ELD functionality) when they have logged into the sleeper berth status in the ELD. FMCSA also places restrictions on location precision (see above) and establishes a process for drivers to file harassment complaints related to ELDs.

ELD Malfunctions: In the event that an ELD malfunctions, the driver is required to immediately begin completing a paper log and to reconstruct logs for each of the past 7 days, unless the driver already possesses the records or the records are retrievable from the ELD. ELDs must be repaired within 8 days, subject to an FMCSA-approved extension.

Personal Conveyance and Yard Moves: Authorized use of a commercial motor vehicle (CMV) for personal conveyance will not be recorded as on-duty driving, but rather off-duty time. Similarly, authorized use of a CMV in a closed facility with restricted access (e.g., a yard) will be recorded as on-duty not driving time.

Driver Edits: Drivers will be able to make edits and annotations to their electronic logs, however, the edits will not overwrite or erase the original record, which will be retained. Employers will be able to request edits or annotations, but those must be approved by the driver.

Interoperability of Devices and Systems: All ELDs must be capable of exporting data in a standard file format to facilitate importing by other systems. However, devices and systems are not required to be capable of importing these records.

It will take a tremendous amount of education for both carriers and shippers to stay in compliance with the ELDs rules. There will be no more fudging on HOS for either party. I hope this information has been helpful to the Committee. Thank you for the opportunity to appear before you today. I would be pleased to respond to any questions you have.