

Traffic Safety



www.nsc.org

Vol. 16 • No. 12 • December 2016

U.S. appeals court upholds ELD rule for trucker hours of service

A federal mandate requiring commercial motor vehicle drivers to use electronic logging devices in place of paper logs remains on track to go into effect after an appeals court denied an attempt to block the rulemaking.

The U.S. Court of Appeals for the 7th Circuit issued its ruling Oct. 31 in response to a lawsuit from the Owner-Operator Independent Drivers Association of Grain Valley, MO, which filed on behalf of two CMV drivers.

The court ruled that OOIDA's objections fell short, and it reinforced the Dec. 18, 2017, compliance date set by the Federal Motor Carrier Safety Administration.

CMV drivers will be required to use ELDs to log their hours of service as opposed to paper logs, which FMCSA claims can be easily manipulated. ELDs record details from each vehicle at repeated intervals, including date, time, location, engine hours, vehicle miles and information identifying the driver, vehicle and motor carrier.

OOIDA suggested that it might not be finished fighting the issue through the legal system.

"We are disappointed and strongly disagree with the court's ruling," OOIDA President and CEO Jim Johnston said in a press release. "Because this issue is of vital importance to our members and all small business truckers, we are reviewing our next steps to continue our challenge against this regulation."

In the ruling, the court addressed each of the petitioners' five arguments:

Argument 1: ELDs must be entirely automatic to comply with Congress's mandate.

Response: "It is unclear what devices petitioners envision, and they do not say. Such a device would need to monitor quite a few variations in human activity. If the device must function *entirely*

automatically, how should it record a driver's change from 'off duty' to 'on duty, not driving'?"

Argument 2: The rule does not protect drivers sufficiently from harassment.

Response: "[FMCSA] bolstered its harassment definition in response to specific concerns raised by drivers during the notice-and-comment process. ... In addition, the agency adopted two specific proposals from petitioner OOIDA: it is expressly unlawful for motor carriers to use ELDs to harass drivers, and the agency established a process for drivers to file harassment complaints."

Argument 3: FMCSA's cost-benefit analysis is flawed.

Response: "The agency's studies here were sufficient to justify the rule."

Argument 4: FMCSA has failed to keep data collected by ELDs confidential.

Response: "While petitioners may have liked additional protections, the agency's treatment of the confidentiality requirement was not arbitrary or capricious."

Argument 5: The ELD mandate is an unconstitutional "search" and "seizure."

Response: "[The] final ELD rule... is not arbitrary or capricious, nor does it violate the Fourth Amendment."

FMCSA estimates that the ELD rule will save 26 lives and prevent 562 injuries every year. "Since 1938, complex, on-duty/off-duty logs for truck and bus drivers were made with pencil and paper, virtually impossible to verify," Secretary of Transportation Anthony Foxx said in a press release. "This automated technology not only brings logging records into the modern age, it also allows roadside safety inspectors to unmask violations of federal law that put lives at risk."

Go to <http://sb-m.ag/2eYuoKh> to read the court ruling.

NEWS BRIEFS

Final rule from FMCSA aims to help military vets become CMV drivers

WASHINGTON – Military veterans who operated commercial motor vehicles during their service will have an easier time obtaining learner’s permits and driver’s licenses to become CMV operators as civilians, thanks to a recently published final rule intended to simplify the process.

Currently, former service members must apply for a skills test waiver to drive a CMV no more than 90 days after leaving the military. More than 10,100 formerly active military personnel took advantage of the skills test waiver between May 2011 and February 2015, according to the agency.

The new rule will extend that time frame to one year. In addition, the new rule will allow states to administer written and skills tests for a commercial learner’s permit or commercial driver’s licenses to active personnel who are stationed in that state even if they are not full-time residents.



According to FMCSA, any state that chooses to accept such an application will have to use the forms and procedures of the applicant’s home state. Test results must be transmitted to the applicant’s home state, which may then issue the permit or license based on the results.

The final rule references the agency’s November 2013 report, “Program to

Assist Veterans to Acquire Commercial Driver’s Licenses.” FMCSA concluded that lengthening the skills test waiver period “would ease the transition of service members and veterans to civilian life with no impact to safety.”

At press time, the rule was scheduled to go into effect Dec. 12. Read it at <http://sb-m.ag/2fbFgQc>.

Electronic logging devices mandate, hours of service top truckers’ list of concerns: survey

LAS VEGAS – A federal requirement to use electronic logging devices in place of paper logs to record hours of service is the top issue affecting motor carriers, commercial motor vehicle drivers and other industry stakeholders, according to the results of a survey conducted by the Arlington, VA-based American Transportation Research Institute (the research arm of the American Trucking Associations).

Concerns about the ELD mandate surpassed concerns about HOS rules, which dropped from the survey’s top spot for the first time since 2012.

Respondents’ top 10 concerns are:

1. ELD mandate
2. Hours of service
3. Cumulative impact of trucking regulations on the industry
4. Truck parking
5. Economy
6. Compliance, Safety, Accountability
7. Driver shortage
8. Driver retention
9. Infrastructure/congestion/funding
10. Driver distraction

The survey garnered more than 3,200 responses from motor carriers and CMV

drivers. Results were released Oct. 3 at the 2016 Management Conference and Exhibition of the American Trucking Associations meeting.

Read the results of the survey at <http://sb-m.ag/2dRVOT9>.

FMCSA issues safety advisory on recalled Samsung Galaxy Note7 smartphones

WASHINGTON – An advisory from the Federal Motor Carrier Safety Administration warns commercial motor vehicle drivers, passengers and carriers about the hazards of traveling with Samsung Galaxy Note7 smartphones and other devices with potentially defective lithium-ion batteries.

Nearly 2 million units have been recalled. The Consumer Product Safety Commission issued one recall in September and a second one in October for the devices because their batteries pose a risk of overheating and catching fire.

FMCSA advises taking the following precautions if you carry a lithium-ion battery-powered device with you on a CMV:

- Turn off the device.
- Disconnect the device from any equipment needed to charge it.
- Disable all applications that could inadvertently activate the phone.
- Protect the power switch to prevent unintentional activation.
- Keep the device in carry-on baggage or on your person.
- Do not place the device in an inaccessible baggage compartment.

The devices have been banned from air travel in the United States by the Department of Transportation as of Oct. 15.

STATISTICS

July traffic deaths up

By Kevin T. Fearn

Motor vehicle deaths in July totaled 3,690, up 1 percent from the July 2015 total.

Medically consulted motor vehicle injuries for the first seven months of 2016 are estimated to be about 2.6 million. As a result of a refinement made this year to the medically consulted injury estimate, comparison of medically consulted injuries to previous years is not appropriate.

The cost of motor vehicle collisions through July is estimated to be about \$244.8 billion. The costs include wage and productivity losses, medical expenses, administrative expenses, employer costs, and vehicle damage. Due to recent updates to the National Safety Council's cost model, comparison of current year cost estimates to previous years is not appropriate.

The estimated annual population death rate for 2016 is 12.7 deaths per 100,000 population, a 7 percent increase from the preliminary 2015 rate of 11.9. The estimated annual mileage death rate is 1.3 deaths per 100 million vehicle miles traveled, an increase of 8 percent from the preliminary 2015 rate of 1.2.

Notes to table

Deaths are reported by state traffic authorities. All figures are preliminary. To ensure proper comparisons, 2014 and 2015 figures cover the same reporting period as those for 2016. The total for 2014 is from the National Center for Health Statistics.

States shown in color had fewer deaths in 2016 than they did in 2015 for the same reporting period.

STATE MOTOR VEHICLE DEATHS, CHANGES AND RATES UNITED STATES, SEVEN MONTHS, 2014-2016

STATE	NO. OF MONTHS	DEATHS IDENTICAL PERIODS			PERCENT CHANGES	
		2016	2015	2014	2015 TO 2016	2014 TO 2016
TOTAL U.S.	7	22,750	21,180	19,478	7%	17%
Alabama	7	562	456	472	23%	19%
Alaska	7	46	39	39	18%	18%
Arizona	7	555	525	422	6%	32%
Arkansas	7	302	288	253	5%	19%
California	7	2,039	1,884	1,627	8%	25%
Colorado	7	323	284	265	14%	22%
Connecticut	7	163	128	144	27%	13%
Delaware	7	72	58	77	24%	-6%
District of Columbia	7	13	14	15	-7%	-13%
Florida	7	1,847	1,685	1,282	10%	44%
Georgia	7	818	767	633	7%	29%
Hawaii	7	60	57	62	5%	-3%
Idaho	7	138	120	106	15%	30%
Illinois	7	597	540	498	11%	20%
Indiana	7	436	440	368	-1%	18%
Iowa	7	218	166	162	31%	35%
Kansas	7	238	181	227	31%	5%
Kentucky	7	468	400	359	17%	30%
Louisiana	7	368	365	384	1%	-4%
Maine	6	63	62	60	2%	5%
Maryland	7	279	261	218	7%	28%
Massachusetts	7	209	189	182	11%	15%
Michigan	7	553	531	511	4%	8%
Minnesota	7	210	219	189	-4%	11%
Mississippi	6	326	288	286	13%	14%
Missouri	7	494	462	419	7%	18%
Montana	7	106	108	106	-2%	0%
Nebraska	7	126	132	129	-5%	-2%
Nevada	7	165	172	167	-4%	-1%
New Hampshire	7	77	55	49	40%	57%
New Jersey	7	326	297	316	10%	3%
New Mexico	7	226	162	204	40%	11%
New York	7	488	-	-	-	-
North Carolina	7	787	763	612	3%	29%
North Dakota	7	61	75	59	-19%	3%
Ohio	7	634	600	528	6%	20%
Oklahoma	7	370	371	380	-*%	-3%
Oregon	7	271	253	169	7%	60%
Pennsylvania	7	668	669	640	-*%	4%
Rhode Island	7	29	25	27	16%	7%
South Carolina	7	555	539	428	3%	30%
South Dakota	7	59	60	80	-2%	-26%
Tennessee	7	584	511	541	14%	8%
Texas	7	2,150	1,997	1,952	8%	10%
Utah	7	168	158	149	6%	13%
Vermont	7	36	29	25	24%	44%
Virginia	7	402	407	373	-1%	8%
Washington	7	300	293	264	2%	14%
West Virginia	7	131	143	132	-8%	-1%
Wisconsin	7	338	295	251	15%	35%
Wyoming	7	53	83	83	-36%	-36%

*Change less than 0.5%.

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Traffic Safety (ISSN 0041-0721) is published monthly by the National Safety Council, 1121 Spring Lake Drive, Itasca, IL 60143, and is printed in the United States. © 2016 by the National Safety Council.

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DRIVING TIP

Stay alert for hazards

Driving at the speed limit, avoiding distractions and staying alert to changing traffic. These are all actions commercial motor vehicle drivers can take to help stay safe on the road. Another important thing to do? Watch out for unexpected hazards – there are more than you might think. According to the California Department of Motor Vehicles, these hazards include:

- Drivers operating vehicles that limit or block the driver's line of sight, including vans, loaded cars, rental trucks, and vehicles with frost- or snow-covered windows.
- Vehicles partially hidden by an intersection or alley. Remember, if you can see only the rear or front end of a vehicle, then the driver cannot see you. Be prepared to stop if the driver backs into or enters your lane.
- Delivery trucks, in which packages and doors often block the driver's vision. "Drivers of step vans, postal vehicles, and local delivery vehicles are often in a hurry and may suddenly step out of their vehicle or drive their vehicle into the traffic lane," CDMV states.
- Parked vehicles. Stay alert for brake lights or backup lights that might indicate a driver is about to move.
- Walkers, joggers and bicyclists, who often wear headphones and may not hear you approaching.
- Road construction workers. The work they are performing may create a distraction for other drivers.
- Drivers involved in a crash, who may not be watching for traffic, and passing motorists who may slow or stop to look at the scene.



For more information and examples of unexpected hazards, go to <http://sb-m.ag/2eRBVrq> and scroll to section 2.8.3.