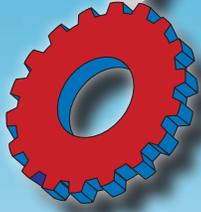


TIMELY TRANSPORTATION NEWS AND INFORMATION FROM ACUITY

InGear

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FMCSA TO MANDATE ELECTRONIC LOGGING DEVICES

page 2



ELECTRONIC LOGGING RULE PUBLISHED

The two-year clock is now ticking on the electronic logging device (ELD) rule.

The FMCSA's rule requiring use of ELDs by most full-time drivers will take effect December 16, 2017, barring any delays caused by future FMCSA action or court challenges. Drivers will no longer be required to keep and maintain paper logs; however, they will still be required to maintain supporting documentation that they submit to their employer or keep on file.

The rule does make it illegal for carriers to use the devices to harass drivers and puts in place fines if carriers do so. However, the rule does not yet specify what penalties will be incurred by drivers who do not comply with the ELD rule. Drivers should monitor FMCSA bulletins to keep current with the progress of this regulation, and updates will be provided in future *InGear* issues.

SUMMARY OF FMCSA'S FINAL RULE

The FMCSA's final rule weighs in at a whopping 516 pages. The American Trucking Associations has created a summary to guide motor carriers in the compliance process.

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 log book timecard exception (i.e. short-haul, 100-air-mile drivers).

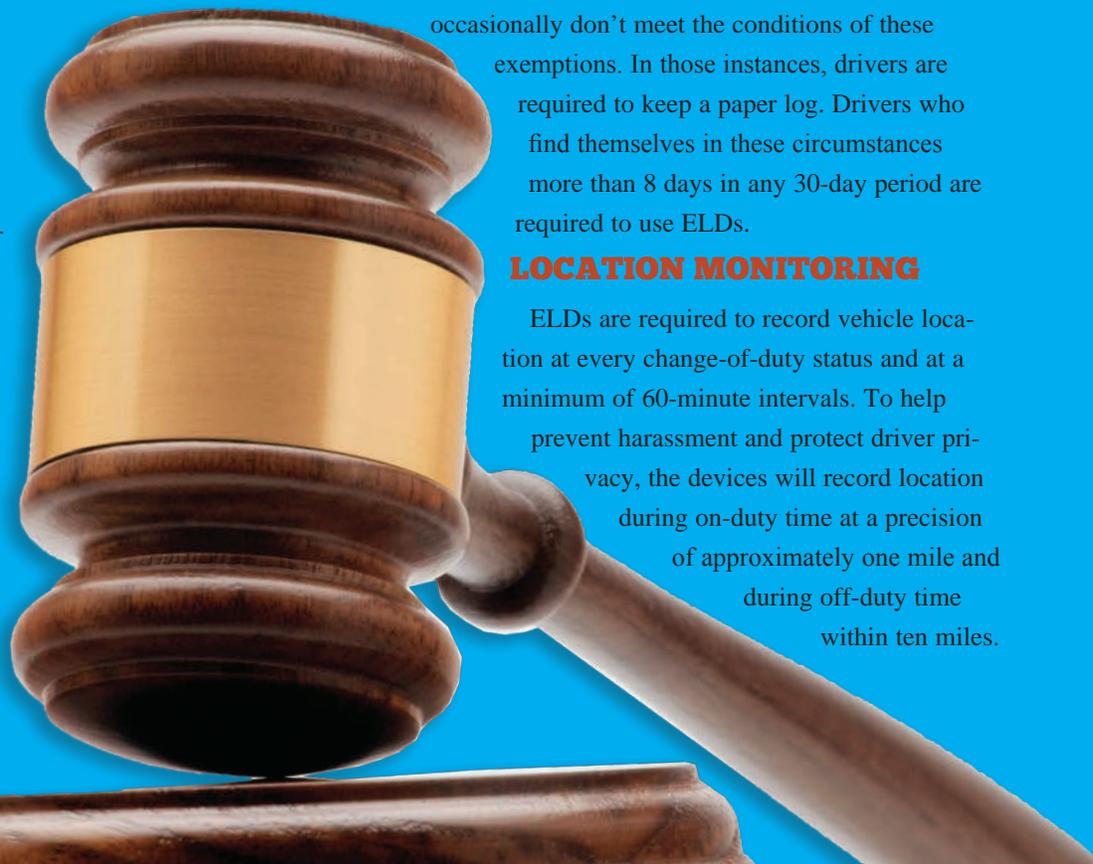
SHORT-HAUL DRIVERS

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 help prevent 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 within ten miles.



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 that would facilitate easily matching to the logs. As before, all hours of service records must be retained for 6 months.

DATA TRANSFER

ELDs must be able to transfer data electronically via either a "telematics" approach capable of wireless web service or 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 or her hours-of-service compliance, either on the ELD's display or on a hardcopy paper printout.

CERTIFICATION

Manufacturers are required to test and certify to FMCSA that their devices meet the new standards. FMCSA will create a public 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. ●

TRUCKERS AT RISK FOR CYBER CRIME

Cyber crime is one of the fastest-growing types of crime in the world, and it's not just limited to large retailers or financial services companies. Businesses of all sizes, including truckers, face the risk of cyber loss.

For instance, in June 2015, a long-haul fleet in Texas became the victim of an insidious "ransomware" attack. The carrier, OutWest Express, received an email with a resume attached from a driver applicant. When company staff opened the attachment, it triggered a virus that infected the company's servers.

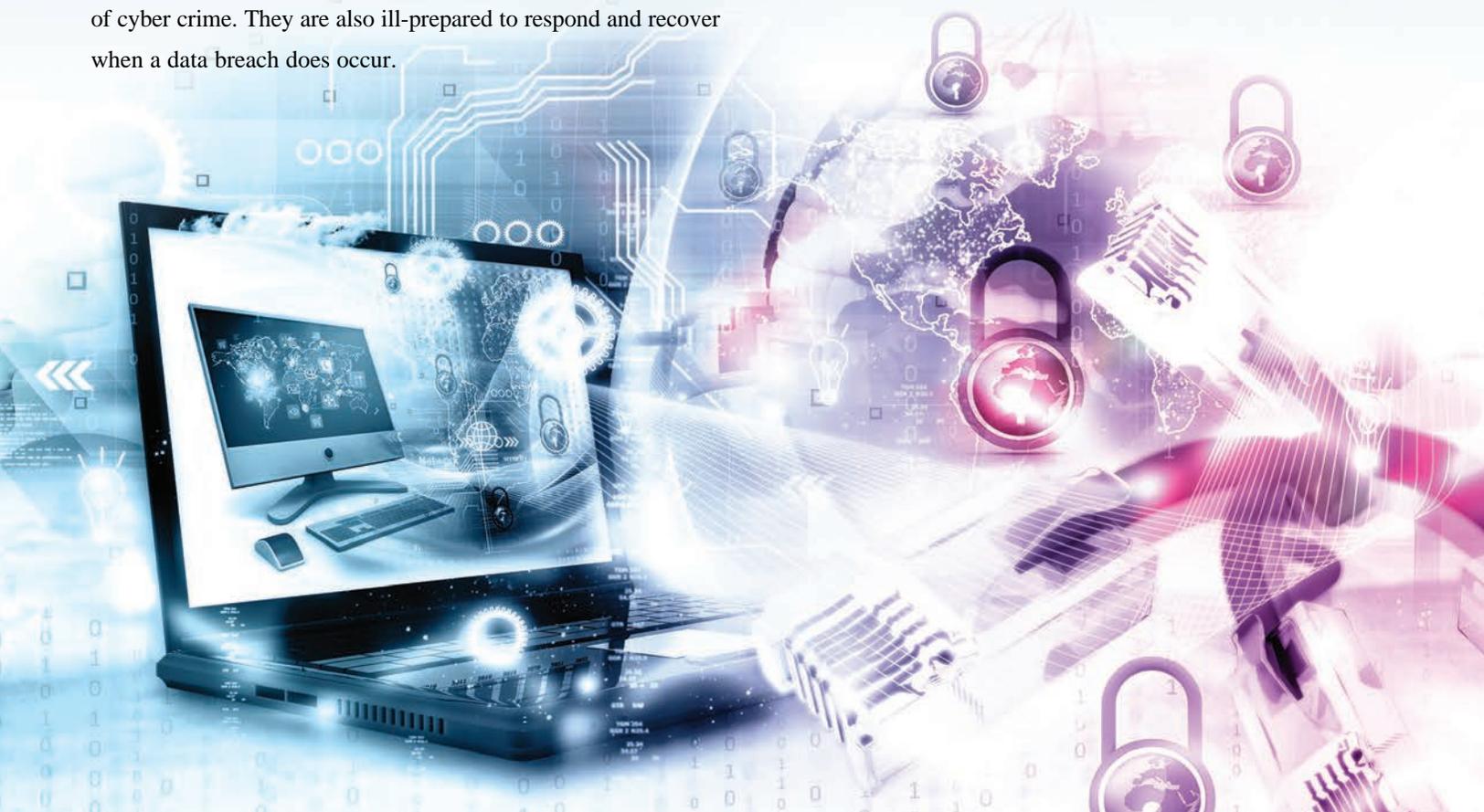
The virus took over the servers, changed logins, and held the company's data hostage, demanding payment of a ransom. Hackers also used the company's client data to steal money from freight brokers.

Email is the most common way that cyber attacks are perpetrated. 85 percent of business hacking results from "phishing" emails like OutWest received. Unfortunately, many truckers lack resources to prepare for and defend against this and other types of cyber crime. They are also ill-prepared to respond and recover when a data breach does occur.

Customers of ACUITY have access to a wide range of free cyber risk management information and resources through the ACUITY eRiskHub[®]. Visit www.acuity.com/customercare and click on Cyber Suite for more information.

Cyber liability coverage should be part of carriers' insurance and risk management strategies. As a liability coverage, cyber liability protects against third-party damages, costs of defense, settlement, and judgments. It is triggered by a network security event, such as a breach of third-party business data, an unintended propagation of malware, or a denial of service attack. Additionally, cyber liability can provide "first-party" coverage to reimburse a business for the costs it incurs, including data and systems restoration, business income, and public relations expenses.

To learn more about cyber liability coverage, contact your independent insurance agent. ●

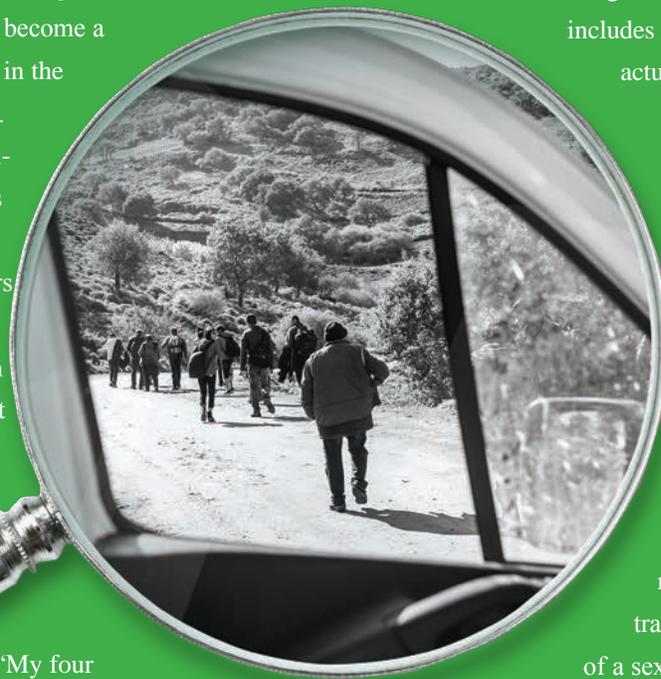


TRUCKERS DRIVEN TO FIGHT HUMAN TRAFFICKING

Human trafficking is, unfortunately, a multi-billion dollar worldwide industry, and a crime that is seen in all 50 states in the U.S.

Trafficking involves the transportation and sale of people for commercial sex or labor and can involve the use of commercial trucks. Because traffickers are continually moving, they often target truck stops and travel plazas as places where they can try and market their victims. Therefore, truckers are in a unique position to help identify and combat this heinous crime.

Truckers Against Trafficking is a non-profit organization that has become a powerful educational force in the industry to fight trafficking. Formed in 2009, the organization teaches truck drivers about the crime of human trafficking and trains drivers to recognize and report it. Co-founder Lyn Thompson explains the effort grew out of a ministry she and her family had started.



"My four daughters and I, along with a friend, were already working on fighting human trafficking through our ministry when we heard a speaker talk about training employees at a local gas station to recognize the signs of trafficking," Thompson says. "I immediately had memories of truckers who were customers at my parents' motel in El Paso when I was a kid. I thought that if we could engage all seven million members of the trucking industry in this fight, they could play a critical role in identifying victims and perpetrators, because truckers all over the United States are moving continually. They're the eyes and ears of our highways."

The group's website provides links to informational resources, including FBI intelligence reports, victim testimo-

nials, and news and updates on the problem, as well as how to contact Truckers Against Trafficking to lend support. The group provides training materials, including DVDs, wallet cards, online curriculum, and other materials, free of charge to companies or individuals.

In 2014, Truckers Against Trafficking debuted its Freedom Drivers Project (FDP), a unique, 48-foot mobile exhibit designed to educate members of the trucking industry and general public about the realities of domestic human trafficking and how the trucking industry is combating it. The exhibit, which includes educational displays, a theatre station, and actual artifacts from survivors, has been toured by tens of thousands of viewers across dozens of states.

Truckers who suspect trafficking can call the National Human Trafficking Resource Center (NHTRC) at 888.373.7888 and report what they know. The NHTRC is tied in to law enforcement, including the FBI, all over the country.

Calls by truckers are making a difference. In one case, a truck driver's call resulted in the arrest and conviction of 31 traffickers, the freedom of 9 minors, and the fall of a sex trafficking ring that had been active in 13 U.S. states. Since Truckers Against Trafficking began, calls by truckers to the NHTRC have grown steadily every year and have resulted in more than 400 human trafficking cases involving 692 victims, 234 of which were minors.

"Unless someone is alert to the signs of human trafficking and makes the call reporting what they're seeing, victims have no hope of rescue," Thompson says. "Learn the signs of human trafficking. Then, if you suspect it, make the call. That's one of the most critical ways that members of the trucking industry are showing that they're everyday heroes."

To learn more or to support the efforts of the organization, visit <http://www.truckersagainstrafficking.org/>. ●

ATRI'S CRASH STUDY CONTRADICTS FMCSA FINDINGS

Truckers are understandably concerned with the FMCSA's approach to evaluating "non-preventable" crashes under the Compliance, Safety, Accountability (CSA) program. Under the current approach, all crashes—including not-at-fault, non-preventable accidents—count against a carrier's Crash Indicator BASIC.

The concern is that the FMCSA's practice paints an inaccurate picture of a carrier's actual safety performance. For example, even if a parked truck is struck by another vehicle, or a truck is hit by a drunk driver who runs a red light, the crash negatively impacts a carrier's Crash BASIC score. Poor BASIC scores can significantly affect carriers and drivers.

Responding to concerns, the FMCSA studied the issue but concluded that the program would not change significantly if

some sort of crash accountability was considered. However, the American Transportation Research Institute (ATRI) conducted a separate study on the matter and came to a different conclusion.

The ATRI's study, "Assessing the Impact of Non-Preventable Crashes on CSA Scores," evaluated crash data from a sample of 15 motor carriers. Released in November 2015, the study found that removing non-preventable crashes would cause a significant positive change in the majority of those carriers' Crash BASIC scores. Three carriers would have seen a ranking change by more than 10 percent, and the biggest drop was 14 percent. A full copy of the ATRI report is available for download at <http://atri-online.org>.

DRUG & ALCOHOL POLICY RESOURCES

FMCSA's controlled substance and alcohol testing regulations are in place to protect the safety of the traveling public.

Regulations require that motor carriers develop a written policy on controlled substance use and alcohol misuse in the workplace and that the policy be provided to every driver. Motor carriers that use drivers who have not been tested for drug or alcohol use or that fail to implement a drug and alcohol testing program can be shut down by the FMCSA. Supervisory personnel also need to be trained to recognize the signs and symptoms of drug and alcohol use to support the reasonable suspicion of drug and alcohol use to support the reasonable suspicion of other aspects of a program.

Though creating your company's own drug and alcohol policy can seem like a daunting task, the FMCSA has a multitude of resources available at fmcsa.dot.gov/regulations/drug-alcohol-testing/employers-resources-and-downloads.

In addition, ACUITY offers help in both researching and creating policies. Visit www.acuity.com/safetyvideos and sign

in to access free streaming videos on the topic. Click Training Network Now or J.J. Keller to select a video. Additionally, you can contact your ACUITY loss control representative for a sample drug and alcohol policy for motor carriers.



CHALLENGING YOUR CSA DATA

It's important that the enforcement data for a carrier is correct. The FMCSA's online DataQs system, dataqs.fmcsa.dot.gov, allows drivers and motor carriers to request and track a review of federal and state data issued by FMCSA that they feel may be incomplete or incorrect.

The system automatically forwards your Request for Data Review (RDR) to the appropriate office for resolution and collects updates and responses for current requests. However, just because a challenge is filed doesn't mean the data will be changed. There are a few practices that can help improve chances for success.

Be Accurate. Make sure to choose the correct RDR type and provide the accurate report number. Be sure your information is complete.

Be Clear. Specify what you want reviewed, and have someone proofread written comments before submitting for clarity.

Be Detailed. Providing supporting documentation such as pictures, bills of lading, registration and license information, contracts, and other information can be important to support a case.

Be Polite. Remember that requests are reviewed by people who are interested in doing the right thing. Being polite and factual will help the process.

Be Honest. It should go without saying, but be sure to file requests only in cases where you reasonably believe a mistake was made. Don't just submit requests hoping something works—you will only develop a bad reputation with reviewers. ●



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