



Commercial Vehicle Safety Alliance

Improving uniformity in commercial motor vehicle safety and enforcement

January 29, 2018

Docket Management Facility
U.S. Department of Transportation
1200 New Jersey Ave., SE
West Building, Ground Floor
Room W12-140
Washington, DC 20590

RE: Docket Comments: Docket Number FMCSA-2017-0356
Hours of Service of Drivers: Application for Exemption; Owner Operator Independent Drivers Association, Inc.

The Commercial Vehicle Safety Alliance (CVSA) respectfully submits the following comments regarding the Owner Operator Independent Drivers Association's (OOIDA) application for an exemption for certain small motor carriers from the requirement that motor carriers equip their vehicles with electronic logging devices (ELDs).

CVSA is a nonprofit association comprised of local, state, provincial, territorial and federal commercial motor vehicle safety officials and industry representatives. The Alliance aims to achieve uniformity, compatibility and reciprocity of commercial motor vehicle inspections and enforcement by certified inspectors dedicated to driver and vehicle safety. Our mission is to improve commercial motor vehicle safety and uniformity throughout the United States, Canada and Mexico by providing guidance and education to enforcement, industry and policy makers.

CVSA strongly opposes the exemption request, as it is both unjustified and impractical. The federal hours-of-service requirements exist to help prevent and manage driver fatigue. While it's true that we cannot regulate sleep, the hours-of-service rules set forth a framework that, if followed, allows for drivers to get the rest necessary to operate their vehicles safely. Unfortunately, hours-of-service violations continue to be some of the most frequently found violations by enforcement officials, who conduct roadside safety inspections. What this tells us is that too many drivers and motor carriers either don't understand the hours-of-service rules or are intentionally violating them – and, as a result, undermining safety. Deployment of ELDs will help address both of these issues.

For those drivers and motor carriers who don't understand the intricacies of the hours-of-service requirements and for those who make the occasional mistake when using their paper log, ELDs will remove the guess work and the risk of human error. This will result in better compliance and fewer violations. For those who are using their log books to find 'wiggle room' in the current hours-of-service regulations, ELDs will make it easier for inspectors to identify violations and take unsafe, noncompliant carriers and drivers off the roadways. The devices will also save time for both inspectors and drivers, leading to more efficiency.

OOIDA argues that small motor carriers are unprepared to implement the requirement. While it may be true that those in the industry are unprepared, that is hardly justification for an exemption. The ELD final rule was published two years ago, in December of 2015; legislation requiring the Federal Motor Carrier Safety Administration (FMCSA) to develop an ELD requirement was approved by Congress in 2012. The ELD requirement is not a new development and industry has had more than enough time to prepare for implementation. If some in industry have failed to do so, while it may be unfortunate, it is not FMCSA's responsibility to resolve. Further, understanding of and compliance with the Federal Motor Carrier Safety Regulations is part of every motor carrier's responsibility and a condition of receiving operating authority from the agency.

OOIDA also argues that small motor carriers will be negatively impacted by the cost of implementation. However, there are many inexpensive ELDs available for purchase. The cost of an ELD is simply part of the cost of doing business and compliance for those in the truck and bus industries – vehicles have to be maintained, drivers have to be trained and ELDs have to be installed. The only scenario in which an ELD might have a significant impact on a company financially is if it reduces the number of miles driven by forcing the company's drivers to drive within the current hours-of-service parameters. Improved compliance and the safety of the motoring public is the purpose of this requirement and not a justification for an exemption for any segment of the industry.

From an enforcement standpoint, this exemption would be difficult, if not impossible, to enforce consistently. First, the lack of an 'unsatisfactory' safety rating does not necessarily mean that a motor carrier is safe and fully compliant with the regulations. Many motor carriers do not have any safety rating and many that do have a rating that is dated and may not accurately reflect the motor carrier's current safety culture. Furthermore, motor carriers with an 'unsatisfactory' safety rating are required to submit a plan to FMCSA indicating how they will address safety shortcomings. Once approved, their status is updated to 'conditional.' Practically speaking, the concept of basing the exemption on a motor carrier's safety rating is impossible to enforce effectively and accurately.

Furthermore, every new exemption is an opportunity for confusion and inconsistency in enforcement, which undermines the foundation of the federal commercial motor vehicle enforcement program—uniformity. For these reasons, exemptions should be awarded only when there is a proven, *critical* need. Exemptions should be the exception, not the rule. Granting yet another regulatory exception only serves to inhibit law enforcement and industry's understanding of the rules. Every exception and change to regulations requires additional training for inspectors, resulting in the potential for a higher level of confusion surrounding the applicability of the regulations. More confusion will ultimately lead to less enforcement on our highways.

If you have further questions or comments, please do not hesitate to contact me by phone at 301-830-6149 or by email at collinm@cvsa.org.

Respectfully,



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