

HOS, RODS, ELDs, and Towing

Designed to prevent driver fatigue



J. J. Keller
& Associates, Inc.[®]

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Speakers

Dan Johnson

Vice President

Wisconsin Towing Association/Wisconsin Motor Carriers Association

Thomas Bray

Senior Business Advisor

J. J. Keller

Agenda

- Applicability
- Laying the groundwork
 - Limits
 - Logs, including ELDs
- Exceptions
 - Hours-of-service exceptions specific to tow operators

Applicability

Do the safety regulations, including the hours-of-service regulations
apply to me?

Applicability of the Safety Regulations

- Interstate - §390.3: Applicable if the driver is operating a “commercial motor vehicle” in “interstate commerce”
 - Interstate commerce (§390.5):
 - Trade, traffic, or transportation (business) that has or will cross state lines
 - A driver can be an interstate driver without ever leaving his/her home state
 - Commercial motor vehicle (§390.5):
 - Weighs or rated at 10,001 pounds or more, single or combination
 - Placarded for hazardous materials

Applicability of the Safety Regulations

- Intrastate – WI Trans 327: Applicable if the driver is operating a “commercial motor vehicle” in “intrastate commerce”
 - Intrastate commerce (§390.5):
 - Trade, traffic, or transportation (business) entirely in one state (Wisconsin in our case)
 - Not all intrastate movements qualify as intrastate commerce
 - Commercial motor vehicle:
 - Weighs or rated at 10,001 pounds or more, single or combination
 - Placarded for hazardous materials
 - **However:** Driver regulations, including HOS are not applicable until a CDL is required due to specific exemptions (§327.09(2)(4))

Applicability

- What about going from intrastate to interstate?
 - 14-/15-day rule (Interpretation Question 24 to §390.3)
 - Switching to interstate – all federal regulations apply
 - Driver must be fully qualified (medical card, DQ file, etc.)
 - Driver must have logs or time records for the previous 7 days
 - Drivers work hours for the previous 7 days must be compared to the interstate limits (§395.3)
 - Once driver is qualified, hours are available under §395.3, and logs are complete, driver can BEGIN interstate movement
 - Switching back to intrastate
 - Driver must follow the interstate rules until he/she has operated 7 consecutive days in intrastate commerce

HOS is Made Up of Three Areas

Limits – Prevent fatigue

Logs – Records to show compliance with the limits

Exceptions – Legal ways to “bend the rules” in specific circumstances

Definition Time...

- On-duty time includes (§395.2, adopted into WI Trans 327):
 - Waiting in readiness (different than “on-call”)
 - Inspecting, servicing, or repairing the vehicle
 - All time in or on a CMV
 - Loading and unloading
 - Remaining with the vehicle
 - Doing any work for the company
 - Any outside compensated employment

On-Duty Time Examples

- The driver being told to remain at the facility waiting to be dispatched
 - Must be free to pursue activities of his/her choosing to call it off duty
- The driver sitting in the vehicle in a TIMA waiting to work
- The driver sitting in the vehicle waiting for a customer
- Hooking, unhooking, doing recovery work
- Doing paperwork
- Traveling at the direction of the company

Limits

In place to prevent drivers from being fatigued while driving due to driving or working too many hours

Everyone Needs to Know the Limits

- Interstate (§395.3):
 - 10-hour break
 - No driving after:
 - 14 consecutive hours after reporting for duty (starting day)
 - 11 hours of driving (within the 14 hours)
 - 8 consecutive hours of driving (requires a 30-minute break from driving)
 - Accumulating either:
 - 60 hours of driving and on-duty time in 7 days, or
 - 70 hours in 8 days (this is only applicable if the company runs vehicles 7 days a week)

Limits for Intrastate

- Intrastate limits for WI (Trans §327.03(10)(b)):
 - 10-hour break
 - No driving after
 - 16 consecutive hours
 - 12 hours of driving within the 16
 - Accumulating either:
 - 70 hours of driving and on-duty time in 7 days, or
 - 80 hours in 8 days (this is only applicable if the company runs vehicles 7 days a week)

Universal Rule to Be Aware Of

- §392.3 – Ill or fatigued operator
 - It is a violation for an ill or fatigued operator to drive a commercial vehicle
 - Being in compliance with the HOS rules in no defense
 - There is NEVER an exception to this rule
 - Applies to interstate and intrastate drivers

Logs

Generic term for documents (electronic or paper) used to track a driver's compliance with the hours-of-service limits

Also known as Records of Duty Status (RODS)

Logs Required Under §395.8(a)

- ELD
 - Interstate: §395.20 to §395.38, and Appendix A to Subpart B of Part 395
 - Not applicable to WI intrastate drivers until April 1, 2025 (§327.03(10)(a)(3))
- Paper logs
 - Interstate: §395.8(d)(f)(g) and (h)
 - Intrastate: Adopted at §327.03(10)(a))
- Time records
 - Interstate: §395.1(e)
 - Intrastate: Adopted at §327.03(10)(a)

ELDs are Mandatory

- The default is the driver must use an ELD (interstate, WI intrastate as of April of 2025)
- Technical specifications:
 - Connected to vehicle ECM
 - Uses engine data to determine when driver is driving
 - Does “automatic data captures” at regular intervals

ELDs are Mandatory

- Technical specifications:
 - Driver logs in and makes required entries during the workday
 - Driver cannot make entries unless the vehicle is stopped (0 mph for 3 or more seconds)
 - ELD must be mounted in view of the driver when driving
 - Driver's entries and automatic captures are combined to create the driver's ELD log
 - Driver certifies log at the end of the day and submits it within 13 days
 - ELD must be able to self diagnose data errors and malfunctions

“Driving” According to an ELD

- If the vehicle moves at 5 mph or more, the device must record the movement as driving time
 - No change or delete automatically captured driving time
 - Driving time can only be reassigned between team drivers or the driving time came in as unassigned driving time
 - Stopping driving
 - Stopped for one minute, the asks the driver for duty status
 - If none provided, the device must log the time as on-duty time

Back Office Functions

- Use only devices/systems listed on FMCSA's ELD Registry (§395.22(a))
- Every account must be assigned to an actual person (§395.22(b))
 - All driver accounts must include the driver's license number in the background data
 - No "ghost driver" accounts

Back Office Functions

- Anyone working in the system must be using their own account (§395.22(e))
- Must have process to back up data and logs
 - System failure is no excuse for loss of everything

Unassigned Driving Time

- Unassigned driving time occurs when a vehicle is moved without a driver being logged in
 - Drivers must (§395.32(b)):
 - Accept or deny any unassigned driving time on the ELD at log in
 - Accept or deny unassigned driving time assigned to the driver by the company

Unassigned Driving Time

- Unassigned driving time occurs when a vehicle is moved without a driver being logged in
 - Carrier must (§395.32(c)):
 - Review all unassigned driving time as it comes in and
 - Assign it to the correct driver, or
 - If it cannot be assigned to a driver, attach a comment explaining why it cannot be assigned

Oops, We Need to Fix That

- Edits are allowed, except to automatically captured data and automatically captured driving time assigned to a driver
- Common errors include forgetting to log out and missing an automatic duty change after driving or logging in (accidentally on duty)

Oops, We Need to Fix That

- Process:
 - Driver initiated:
 - Driver makes the changes and “recertifies” the log
 - Carrier initiated:
 - Driver reviews the proposed edit
 - Driver accepts or denies
 - If driver denies, edit will be in “limbo” and not part of the driver’s official log for the day

Malfunctions

- If the device malfunctions, the driver must (§395.34(a)):
 - Notify the carrier in writing (paper or electronic)
 - Reconstruct the previous seven days using ELD records and/or blank logs
 - Use paper logs until the ELD is repaired or replaced

Malfunctions

- The carrier must (§395.34(d)):
 - Repair or replace the device within 8 days
 - Apply for an extension within 5 days, if repair/replacement not possible in 8 days

ELD at the Roadside

- During a roadside inspection, the officer:
 - Verifies device is on FMCSA's ELD Registry
 - Has the driver present the device (or a printout if the device cannot be provided to the officer outside of the cab)
 - Has the driver transfer the records
 - Verifies the driver's compliance with the limits and logging requirements

ELD at the Roadside

- During a roadside inspection, the officer verifies driver has other required documents
 - User's guide
 - Transfer instructions
 - Malfunction instructions
 - At least 8 blank logs

Common Question

- Do I need an ELD in all of my vehicles?
 - No. An ELD is only required to be in the vehicle if the driver operating it must be using an ELD

Paper Logs are Allowed ONLY IF...

- Driver only occasionally logs (8 days or fewer in the last 30 days)
- Driver is involved in driveaway operations
 - Driving vehicles or towing RVs being delivered as part of a shipment
- The vehicle the driver is driving is older than MY 2000
 - Based on EITHER the:
 - VIN, or
 - Engine serial number/emissions label

Time Records Can Be Used ONLY IF...

- Time records can be used in place of an ELD if the driver
 - Stays within 150 air-miles of work reporting location,
 - Returns to the work reporting location with 14 hours, and
 - The time records include the starting and ending time for the day and total hours on duty

Sequence for a “Logging” Driver

- ELD
 - Required, unless an exemption applies to the driver
 - Not applicable to intrastate drivers until April 1, 2025
- Paper log
 - Can only be used if one of the ELD exemptions applies
- Time records
 - Can only be used if driver meets the short-haul logging exemption
 - 150 air miles, 14 hours, etc.

Sequence for a Short-Haul Driver

- Time records
 - If can't use time records today...
- Paper log
 - Unless already used paper log 8 days or more in the last 30 days, then
- ELD
 - Not applicable to intrastate drivers until March 1, 2025

Exemptions and Exceptions

The legal way to bend the rules

Towing Specific Exemptions/Exceptions

- §390.23(d) – Exempt from HOS limits in §395.3 (or §327.03(b)(10)(b))
 - Responding to request of law enforcement to move a disabled vehicle
 - Only applies to:
 - Responding
 - Working on the scene
 - Doing the “first tow” (getting the disabled vehicle off the roadway and secured)
 - Returning to company facility
 - 24-hour maximum
 - Must log the time, but it does not count toward the limits

General Emergencies

- §390.23(c) – Exempt from HOS limits (§395.3 or §327.03(b)(10)(b))
 - Emergency (disaster) must be declared by an authority having jurisdiction
 - Local, county, or state official with the authority to declare an emergency, or
 - An FMCSA official who has the authority
 - Only applies to:
 - Responding
 - Working in direct support of the emergency relief
 - Returning to company facility
 - 5-day maximum
 - Must log the time, but it does not count toward the limits

Not Covered by the HOS Regulations

- Interstate:
 - §390.3 and §390.5: Truck and towed unit are under 10,001 pounds (combined)
 - §390.3(f): Use of CMV to transport personal property, not for compensation or business related
- Intrastate
 - §390.3(f) (adopted under §327.03(1)): Personal property
 - WI §327.09(4)(b) Intrastate-only driver operating a vehicle that does not require a CDL to operate

Personal Conveyance

- “Off-duty driving”
 - Company authorizes use of personal conveyance
 - Driver is off duty during the movement (no company work)
 - Destination is purely personal and not the driver’s work reporting location
 - There is no benefit to the company (including the vehicle being better positioned)

Other Exemptions That are Out There

- §395.1(j) – Travel time can be logged off duty if...
 - The driver did not drive a CMV
 - Has 10 hours off when arriving at the destination
- §395.1(o) – Drive until the 16th hour (interstate)
 - Returned to the work reporting location the last 5 working days
 - Has not used the exemption in the previous 6 days or since the last restart
 - Driver is released for 10 hours off after the 16th hour

Decision Matrix

1. Are the safety regulations applicable to me?
If no, stop here as you are not covered by the HOS regulations
If yes, continue.
2. Are the HOS regulations applicable to me?
If no, stop here as you are not covered by the HOS regulations
If yes, continue.
3. Which limits are applicable to me (interstate or intrastate)? Continue
4. Can I use a time records in place of a log (do I qualify for the short-haul logging exception in §395.1(e))?
If yes, use time records
If no, continue
5. Can I use a paper log? (does one of the ELD exceptions at §395.8(a) apply to me)?
If yes, use paper logs
If no, continue
6. I am required to use an ELD

Company Decisions

- Safety management controls
 - You are responsible for making sure you and your drivers comply
- Considerations:
 - HOS/fatigue policy
 - Auditing driver's records
 - Making sure various drivers are using the correct logging method
 - Require everyone to do a time record, and a paper log or ELD when required?
 - Require everyone to use a paper log all the time?
 - Require everyone to use an ELD?
 - Disciplinary process when rules are broken
 - Liability increases if you don't do this and you are investigated or in a crash

Questions?

Think of any later, send to:

Thomas Bray

tbray@jkkeller.com

Dan Johnson

Djohnson@witruck.org