

Petition to Reconsider the Electronic Logging Devices and Hours of Service Supporting Documents Final Rule

codified at 49 CFR Parts 385, 386, 390, and 395 on December 10th 2015,
Docket No. FMCSA-2010-0167, RIN 2126-AB20

by **William B. Trescott**

Dear Mr. Darling,

The *Motor Carrier Safety Improvement Act of 1999*, 49 U.S.C. § 113(c), requires that the head of the Federal Motor Carrier Safety Administration possess “professional experience in motor carrier safety.” Anyone who lacks such experience lacks the statutory right to promulgate this rule. To my knowledge, you have never driven a truck for a living, much less met the minimum standard for employment in the motor carrier safety profession—an above average safety record driving 18 wheelers. Nor do you appear to have experience designing trucks or testing safety devices as any reasonable person would expect of someone who has professional experience in motor carrier safety. You have not been confirmed by the Senate and your term as acting administrator has expired. Thus, no document bearing your signature should be considered to be a valid final rule.

Should a Tea Party candidate be elected President and waive sovereign immunity, you could be held liable for any deaths and injuries that occur due to this action. As a member of the bar you should know better than to become involved in such a scandal (see attachment). Please grant my petition.

As a trucker by trade employed by Swift Transportation, the nation’s largest motor carrier, I have experienced significant harassment and retaliation through the electronic logging device installed in the vehicle I am assigned to drive. On October 7th 2015, my employer called five times during my mother’s funeral after I moved the company truck without permission at the request of a police officer—necessitating that I turn off my phone so that its constant vibrating would not disturb my family. During long off duty periods on November 6th, 7th, and 8th 2015, fifteen identical messages were sent during the night to prevent me from sleeping after I failed to purchase fuel in a timely manner. Despite having logged 750,000 miles without a preventable crash, I have suffered more than \$1,000 in lost income due to so called “safety holds” during which time I was refused dispatch after I helped an Arizona police officer write a ticket against my employer for recording two 34 hour restarts on my electronic logging device within a ten day period over my objection. Your final rule does nothing to prevent this type of harassment.

While training at Groendyke Transportation, a hazardous chemical carrier, my

instructor was coerced to log pre-trip inspections during darkness when anyone with common sense will recognize that a thorough inspection cannot be accomplished. When I inspected his truck in daylight, four of his ten tires had to be replaced before I could begin my driving test. Though I was not allowed to haul anything more caustic than sodium hydroxide, he regularly hauled epichlorohydrin, a chemical so dangerous it ignites on contact with air and emits chlorine gas requiring evacuation of all citizens within a one mile radius. One of his tires had a foot long zipper that could have exploded at any moment. Swift also retaliated against me for refusing to falsify post-trip inspections performed during darkness. Your final rule does nothing to prevent this type of coercion.

The above captioned final rule should be reconsidered for the following reasons:

Since an the electronic logging device (ELD) is capable of detecting violations and reporting them wirelessly, the FMCSA has not provided a sound reason why officials should have access to personal information once the device determines that no violation has occurred. There is no reason why the compliance review process could not be programmed into the computer chip to eliminate the need for the device to retain personal information. If no violation is detected, the ELD need only transmit an identification code to satisfy law enforcement that it is operating properly before erasing all personal information used to make that determination. **Laying off redundant FMCSA employees would save a half billion dollars per year—more than enough money to pay for the devices.**

FMCSA failed to consider modifying the hours of service rules to adapt them to the limitations of ELD's. Because an ELD cannot tell the difference between on duty not driving time and off duty time, the HOS rules should be simplified to make the ELD completely automatic. A driver should be automatically logged on duty from the time the truck begins to move after 15 minutes of vehicle movement and automatically logged off duty from the time of the last vehicle movement 14 after the first movement. Failure to stop and rest before 6 hours or to drive after 14 hours would result in an audible alarm and transmission of personal information to be received wirelessly by law enforcement.

To facilitate the efficient use of ELD's, the trucker's hours of service rules should be simplified as follows:

Rule 1) Commercial motor vehicle operators must cease all work for 10 uninterrupted hours after each 14 hours on duty.

Rule 2) Commercial motor vehicle operators must rest a total of one hour during each 7 hours on duty.

Rule 3) Commercial motor vehicle operators may not be dispatched to drive more than 10 hours in a 24 hour period or be on duty more than 70 hours in any time period unless an equivalent number of hours are logged off duty.

For a more detailed description of these rules see www.truckingvideo.com/hos.htm.