

Hours of Service Compliance

Best Practices for Towing Companies

Background – Hours of service regulations apply to all operators of commercial motor vehicles including tow trucks in the ordinary course of business and usually even while responding to routine law enforcement requests for service. The emergency operations exception is very limited in scope and requires a declared emergency by local, state or federal governmental agencies to be applicable.

State Exceptions – There are 14 states that have intrastate hours of service regulations that are substantially different from federal regulations and provide greater flexibility for towing operations. The other 36 states adopt the federal regulations by reference with only minor changes that have little to no impact on typical towing operations. The 14 states with special intrastate rules are AK, AL, AZ, CA, FL, HI, IN, MT, NM, NV, PA, TX, WA, and WY. Some completely exempt trucks under a certain weight from all hours of service compliance while others make special exceptions for tow trucks only.

Who is Typically Affected – In general all towing companies are subject to hours of service, however only a small portion of the industry regularly operates trucks in interstate commerce outside of the short-haul exception radius. Even fewer do this often enough to require use of electronic logging devices. Simply put, if you do not currently need to complete paper log books more than 8 times in any 30 day period (per driver not per company) then you most likely do not need to use an ELD.

Interstate Commerce – Interstate commerce is defined by the intent of the shipment, not always the actual part of the shipment that the motor carrier engages in. Simply put, it is possible to engage in interstate commerce without even leaving your hometown. A simple example of this concept is deliveries by UPS or FedEx, the small truck delivering to your home or office is engaging in interstate commerce when they deliver your out of state package even though that driver likely never left the state, maybe not even the city.

Suggested Solutions – We suggest stepping back and evaluating your dispatch policies, call types, volume and driver availability. Often a tow company can simply alter how they assign out-of-area calls to keep their individual drivers within the 8 in 30 day exception to ELDs. Further, many companies can better utilize available resources within the parameters of the short-haul exception to log book requirements. If neither of these suggestions will work for your operation it is time to review the importance of these out-of-area calls and decide accordingly.

Short-haul Exceptions – The Federal Motor Carrier Safety Administration recognizes that not all trucking operations are equal. In an attempt to accommodate local operations they have made available several short-haul exceptions to the hours of service and record of duty status (log book) regulations. There are notable differences when operating a truck or combination of vehicles that does not require a commercial driver license (CDL) vs. when operating a truck or combination that does require a CDL. Below is a quick summary of the two most useful short-haul exceptions and some simple guidance on how they may apply to a towing operation.

Non-CDL Short-haul Regulations – Per 49 CFR Part 395.1 (e) (2) operators of property carrying commercial motor vehicles that do not require a CDL do not need to use an ELD or complete a log book if;

- they stay within a 150 air-mile radius of their work reporting location and;
- return to the normal work reporting location at the end of each tour of duty (shift) and;
- the driver does not drive after the 14th hour after coming on duty on 5 days of any 7 consecutive day period or;
- the driver does not drive after the 16th hour after coming on duty on 2 days of any 7 consecutive day period and;
- the employing motor carrier maintains true and accurate records to reflect this.
- The driver can not drive after accumulating 70 hours in any 8 day period if the employing motor carrier regularly operates trucks all 7 days of the week (60 in 7 if not)

What this means is your light-duty drivers will not need ELDs if they stay within 150 air-miles, start and end their shift at the same place each day and do not work more than 14 hours per shift up to 5 days of the week. They also are allowed two 16 hour shifts in a week. Note, this weekly period does not automatically reset, it is a rolling 7 day period. Most light duty towing operations take place within this proximity of base.

CDL Short-haul Regulations – Per 49 CFR Part 395(e)(1) operators of property carrying commercial motor vehicles that require a CDL do not need to use an ELD or complete a log book if;

- they stay within 100 air-mile radius of their work reporting location and;
- return to the normal work reporting location and are released from duty within 12 hours and;
- the employing motor carrier maintains true and accurate records to reflect this.
- The driver can not drive after accumulating 70 hours in any 8 day period if the employing motor carrier regularly operates trucks all 7 days of the week (60 in 7 if not)

What this means is when operating trucks that require a CDL driver there are more restrictions than when operating light-duty trucks. To be exempt from log books or ELD regulations they are limited to a 100 air-mile radius from their normal work reporting location and a total of 12 consecutive hours on duty. If they exceed 12 hours on duty, even staying within the 100 air-mile radius, they are required by federal regulations to complete a log book. If this happens more than 8 times in any 30 day period then the log book must be completed using an ELD.

Summary – Depending on the nature of your operation and the state(s) you conduct business in you may have to comply with the ELD mandate. Several states already require ELDs for intrastate use due to their automatic adoption of federal regulations and most others are planning on requiring them soon. No state currently requires the use of an ELD if your operations qualify for either the federal or state level short-haul exceptions.

- Fully utilizing the available short-haul exceptions as well as proper understanding of interstate vs. intrastate commerce operations is your best option for hours of service and electronic logging device compliance today.
- Working with state associations as well as the Towing and Recovery Association of America for legislative relief is the best long term option for a workable solution and sensible regulations.

About the Author – Brian J. Riker is President of Fleet Compliance Solutions, LLC and Director of Transportation Compliance for eComply.com[®]. He is a third generation tower with more than 25 years of experience in the ditch. Brian specializes in helping towers and other non-traditional fleets navigate the complex world of regulatory compliance. He works with several state associations as well as the TRAA. You can read his bi-weekly column in Tow Industry Week or find him presenting educational seminars at any number of tow industry shows throughout the year.