

February 2023

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## MESSAGE FROM THE EDITOR

### Video could've saved their safety rating

Everyone knows that dash-mounted cameras can improve driving behaviors and crash investigations, but did you know they can also improve your safety rating? The key, however, is making sure they're on.

That's the lesson an Illinois motor carrier recently learned after one of its drivers was involved in a crash on a heavily congested stretch of I-294 in the Chicago suburbs. The truck driver was in the second of four lanes when a car on his left suddenly made an illegal lane change, causing the car's right rear to crash into the left front of the truck.

#### Nowhere to go

The truck driver said he tried to move away but had nowhere to go since his truck was surrounded by other vehicles. (And believe me, as someone who regularly drives around Chicago, trucks are given very little room to maneuver on I-294!)

During a later FMCSA audit, however, the investigator refused to treat the crash as non-preventable, labeling it as "undetermined" instead. Unfortunately, that (along with other crashes) made the company's overall accident rating "unsatisfactory," which lowered their overall safety rating to "conditional."

#### Wrong video

The company fought the downgrade of its safety rating, submitting a police report showing that the car driver was cited for the traffic violation and was clearly at fault. The motor carrier also submitted video evidence from its dash-cam system, but unfortunately, the video was from a different incident. The company was made aware of the mistake but was unable to produce the correct video.

Without video evidence, the FMCSA ruled that the auditor's initial assessment had to stand, and the company's safety rating remains "conditional" to this day.

#### Two separate issues

If you're familiar with the FMCSA's crash policies, you know that the cause of a crash and whether it could have been avoided are separate issues. Here, the car driver caused the crash, but could the truck driver have done anything to avoid it?

Without video, the auditor explained that he had no way to know basic facts, such as traffic conditions and the location of other vehicles. In this case, the truck had cameras but either they were turned off or the videos were lost.

The lesson here is clear: video cameras can provide useful evidence that could save your safety rating, but you need to make sure they're recording at the right time and that those recordings are available in case you're audited. ♦



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# DOT proposal limits emergency relief to hours of service

If your company is inclined to offer a helping hand during natural disasters, pandemics, and other government-declared emergencies, you may soon have to follow more rules than you used to.

The Federal Motor Carrier Safety Administration (FMCSA) is hoping to add more restrictions to its “emergency” rule in 49 CFR 390.23, which has remained largely unchanged for 30 years.

## Automatically exempt

Today, that rule offers an automatic 30-day exemption from most FMCSA safety rules for those providing direct assistance to emergency-relief efforts. In theory, this means an unqualified, fatigued driver in an unsafe vehicle could make emergency deliveries without violating the Federal Motor Carrier Safety Regulations (FMCSRs).

The agency now wants to put an end to that possibility. It’s proposing changes that would make some drivers exempt only from work limits, and in some cases for less than a week.

## New restrictions

The FMCSA’s proposed changes would, in part:

- Allow drivers to be exempt only from the hours-of-service limits (395.3 and 395.5), and only for up to five days, if the emergency was declared by a governor, local official, or the FMCSA. Presidential emergency declarations — like the one issued in 2020 for the COVID-19 pandemic — would continue to result in a 30-day exemption from all FMCSRs.
- Alter the definition of “emergency” to exclude economic conditions caused by market forces, in most cases (e.g., shortages of raw materials or supplies, labor strikes, driver shortages, inflation, or fluctuations in freight shipment or brokerage rates).
- Keep in place a broad exemption for emergency deliveries of home heating fuel.



Note that, if the changes are finalized, drivers will need to record their time when responding to certain emergencies since the logbook rules in §395.8 would still apply.

## Using the exemption, today and tomorrow

Given the increasing number of emergency declarations in recent years, more motor carriers and drivers may consider using the emergency exemption in 390.23. If that

includes you, be sure to review the regulation carefully, along with definitions in 390.5 for:

- Direct assistance,
- Emergency relief, and
- Emergency.

You’ll also need to review the terms of the emergency declaration itself, usually available online at [www.fmcsa.dot.gov/emergency-declarations](http://www.fmcsa.dot.gov/emergency-declarations). Some declarations, for example, require that drivers carry a copy of the official notice when operating under the exemption.

If the FMCSA’s proposed changes are made final, plan for additional time and consideration when responding to a non-presidential emergency. You’ll need to make sure the exemption applies and that your drivers comply with all other FMCSRs except the limits on drive time, and you’ll need to pay close attention to the expiration date.

## Comments are welcome

If you want to comment on the FMCSA’s proposed changes, you’ll have until February 6 to do so. Comments may be submitted online at [www.regulations.gov](http://www.regulations.gov) under docket FMCSA-2022-0028. ♦



**Key to remember:** The FMCSA wants to impose new limits on use of its exemption for declared emergencies. If you plan to offer a helping hand during emergency situations, make sure you know what you’re exempt from, and for how long.

# Testing for additional drugs still taboo for DOT tests

With the development of new synthetic drugs and changes in drug use, motor carriers may wish they had more than the standard DOT drug panel as an option to detect and deter drug use. The DOT five-panel drug test will not detect all possible substances that could impair a driver. This leads motor carriers to question whether a larger panel may be requested as a part of the DOT collection.

The simple answer is “no.” Motor carriers cannot add more drugs to the DOT panel. The rationale behind DOT’s decision lies in a Federal Register entry from December 1, 1989, that established Part 40 testing procedures. The decades-old reasons behind DOT’s decision still apply today.

## DOT purposes only

Part 40 procedures only allow the lab to test for five families of drugs within specified thresholds. The drugs are:

- Marijuana
- Cocaine
- Opioids
- Amphetamines
- Phencyclidine (PCP)

If employers wish to test for drugs other than these five, DOT rules require a second, separate urine collection in order for a non-DOT test to be performed.

The DOT sample may not be used for other purposes, and carriers cannot request that the lab test the specimen for any additional substances. In fact, any leftover urine from the DOT collection must be discarded and cannot be used for a non-DOT test.

## DHHS certified labs

Part 40 procedures require all DOT specimens be processed by a lab that is certified through the Department of Health and Human Services (DHHS). DHHS lab certification does not extend to testing for additional drugs. Use of DHSS-certified labs establishes required, uniform standards for accuracy and the integrity of the five-panel drug screen.

## Court precedence

Aside from the certified lab procedures, permitting an employer to ask for additional drug screens in a DOT panel might bring Fourth Amendment rights into question. Courts have upheld the five-panel, federally-



mandated tests under DHHS guidelines (*Skinner v. Railway Labor Executives’ Association*). Testing for additional drugs further intrudes on the privacy of drivers and may not be approved by courts as testing has been in the past.

## What options do employers have?

Many carriers have implemented non-DOT testing programs. These types of programs are permitted if they don’t go against union arbitrations or state employment laws. Note that the result of a non-DOT test does not hold any DOT consequences. For instances, it cannot be used as a rationale for reasonable-suspicion testing or claims of actual knowledge. Any ramifications are strictly based on company policy, within the scope of employment law.

Regarding the testing panel for a non-DOT drug test, employers need to review state laws. Some states have adopted the DHHS testing procedures that appear in Part 40 for workplace testing programs, while others allow the employer to cast a wider net and ask the lab to test for different drugs.

For those companies that conduct business in more than one state, a non-DOT testing program cannot be all encompassing. What is allowed in one state may not be permitted in another. The non-DOT testing program will have to be tailored to state law in each state in which the company is located. ♦



**Key to remember:** Employers may not test for any substances other than those included on the DOT five-panel drug test. A non-DOT drug testing program may be an option to supplement a DOT testing program.

# Bathroom access for truckers: Proposed legislation may pass in 2023

Drivers became heroes during the first several months of COVID-19-related product shortages, yet bathroom access is still not a sure thing out on the road. That may soon change under proposed legislation.

The Trucker Bathroom Access Act is a bipartisan bill introduced by representatives Troy Nehls (R-TX) and Chrissy Houlahan (D-PA). The bill would require truckers to be granted the use of existing bathroom facilities when picking up or delivering cargo at ports, terminals, and customer facilities. Rail facilities are not covered in the bill.

No business would have to construct new bathroom facilities. However, truck drivers would have access if the facility has a bathroom available to their customers or employees.

## Driver recruitment could benefit

In the American Transportation Research Institute’s “Critical Issues in the Trucking Industry” study, updated for 2022, the driver shortage was the number one carrier concern. Working conditions, including treatment from shippers and consignees, contribute to the lack of people wanting to drive a truck.

In the study, “delays at customer facilities” was number four on the drivers’ list of issues and number nine on the carrier issues list. Denying access to bathrooms increases driver dissatisfaction during delays.

## Shippers of choice

Carriers that use a “Shipper of Choice” (SOC) customer ranking method obtain driver feedback on treatment and length of delays while at customer facilities. Customers who have minimal delays, treat drivers courteously, and already grant restroom access are likely near the top of the SOC ranking.

Also, quantifying delays with electronic logging device data and billing for detention can help reduce wait times and increase a shipper’s reputation with drivers.



### Steps you can take today

Until the legislation is passed, there are steps you can take to help ensure your drivers have access to bathrooms:

- Include bathroom access as a factor when ranking/scoring your customers and/or when deciding who to do business with.
- Encourage your customers to let drivers access their bathrooms. Explain why it’s important as a health and safety issue.
- Encourage your dispatchers to help drivers find available bathrooms, and give drivers the time to find one when needed.
- Step in to help drivers deal with situations where they’re forced to choose between leaving a facility to find a bathroom or keeping their slot at the dock.
- Keep a list of customers that do or do not have bathroom access, so drivers know what to expect.
- Practice what you preach — grant bathroom access to other companies’ drivers at your own facilities. ♦



**Key to remember:** Carriers can use their customer data to improve conditions for drivers. If passed in 2023, this bill could also help make the driving job slightly more attractive.

# New guidance clarifies when you can propose ELD edits

Motor carriers cannot propose edits to a driver's electronic log until the log is complete and turned in, according to new guidance from the FMCSA.

The agency has clarified that 49 CFR 395.30 prohibits motor carriers from requesting changes to a driver's logs before they have been certified and submitted by the driver.

## Regulation is unclear

The guidance may have been necessary because the regulation itself could be misread. It says a motor carrier may request edits "on review of a driver's submitted records."

The guidance clarifies that the driver must not only submit the records but must first certify them before the company can propose a change.

Why propose an edit? The rules make clear that edits are meant to "ensure accuracy." If, through internal log auditing, you find that something is not quite right about a driver's log, you may propose an edit to make sure the driver is aware of the alleged mistake and has the chance to fix it.



## What happens next?

After proposing edits to a driver's submitted log, the driver must either:

- Agree to make the edit, annotate the record to indicate why the edit was made, and then recertify and resubmit the record; or
- Reject the proposed change.

With ELDs, the driver is "in the driver's seat" and their reputation is on the line. The driver is charged with making sure their logs are accurate and so they have the power to reject any edits that are proposed, even if failing to make the edit puts them in violation.

## Avoid coercion and harassment

You can't force drivers to accept a proposed edit. Depending on your motivation, doing so could result in a claim that you tried to coerce or harass a driver:

- Under 390.36, motor carriers are prohibited from using information available through an ELD to harass drivers, i.e., in a way that you know (or should know) will result in an hours-of-service violation.
- Under 390.6, motor carriers are prohibited from threatening drivers with an employment action (such as layoff, a cut in pay, withholding work, etc.) for refusing to violate any of the Federal Motor Carrier Safety Regulations.

It may go without saying, but never try to coerce a driver into making a false entry on their hours-of-service records. ♦



**Key to remember:** New FMCSA guidance explains that you may not propose an edit to a driver's ELD record until it has been certified and submitted. It's important to know when editing is and is not allowed, and what role the driver and motor carrier play in the process.

# Trucker fatalities reach new high; here's how to help

Truck driving remains one of the nation's deadliest jobs, with 1,032 professional drivers losing their lives in 2021, according to recent data from the Bureau of Labor Statistics (BLS).

That's the highest fatality number for drivers since the BLS began keeping track in 2003. It represents an increase of over 16 percent since 2020, when 887 drivers lost their lives on the job.

The 2021 figures include:

- 874 heavy- and tractor-trailer truck drivers,
- 72 driver/sales workers, and
- 86 light-truck drivers.

Overall, Americans suffered 3.6 fatal injuries per 100,000 full-time workers in 2021. In contrast, the rate for employees classified as "driver/sales workers and truck drivers" was a whopping eight times higher, at 28.8.

## Crashes are the leading cause

Not surprisingly, crashes were the leading cause of death for truck drivers in 2021, serving as a reminder that preventing crashes is critical to driver safety. Of the 874 truck-driver fatalities:

- 703 (80%) were from crashes and other transportation incidents
- 59 (7%) were from exposure to harmful substances or environments
- 54 (6%) were from contact with objects and equipment
- 28 (3%) were from slips, trips, or falls
- 24 (3%) were from violence and other injuries from persons or animals

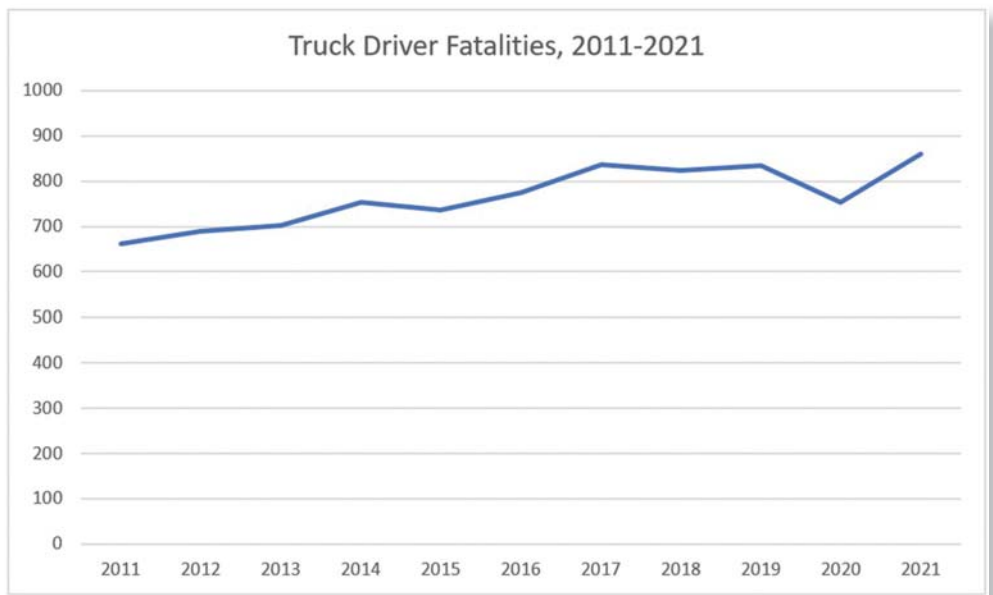
## What can you do about it?

As simple as it is, wearing a seatbelt can dramatically increase a driver's chances of surviving a crash. In recent years, the FMCSA found that over 40 percent of large-truck occupants involved in fatal crashes were not wearing their seatbelts. Of those, 43 percent were killed in the crash, compared to eight percent of belted truck occupants.

Ensuring your drivers buckle up — every time they get behind the wheel — is one easy way to keep them safe.

## The big three

Though most large-truck crashes are caused by other drivers, the FMCSA has consistently found that speeding,



distraction, and failing to yield are top crash-related factors recorded for truck drivers involved in fatal crashes. Enacting policies and procedures to curb these behaviors, and training drivers on defensive driving techniques, can further help prevent driver fatalities.

### Keep in mind:

- Speeding is always prohibited, under both federal regulations (392.6) and state traffic codes.
- Similarly, texting while driving is prohibited under federal rules (392.80) and state codes.
- The non-emergency use of a hand-held cell phone while driving is prohibited under 392.82 and many state laws.
- Drivers may be cited under 393.88 for watching television, movies, or videos while driving.
- If an electronic logging device has a portable display, such as a cell phone or tablet, the display must be mounted while driving.
- A motor carrier that permits its drivers to violate safety regulations such as those cited above can be fined nearly \$17,000 per occurrence. ♦



**Key to remember:** Truck-driver fatalities have reached another new high. Take steps to prevent your drivers from being fatally injured on the job.

# ELD transfer violations now affecting CSA scores

After a five-month delay, violations for failing to transfer electronic logs to an inspector are now impacting Compliance, Safety, Accountability (CSA) scores.

The violation is cited under 49 CFR 395.24(d) when an electronic logging device (ELD) cannot transfer hours-of-service records electronically to the inspector. The violation carries three points and affects CSA scores in the Hours of Service (HOS) Compliance category.

The change took effect on July 1, 2022, but violations did not begin affecting CSA scores until December 1, 2022.

## Are your ELDs compliant?

During a roadside inspection, the driver must be able to print or display logs for the last seven days plus the current day, and then must be able to transfer those logs electronically.

Handing an ELD display to the officer is the typical way a driver would provide the logs for initial inspection, but drivers must also be able to transfer their log data electronically.

If logs cannot be transferred, officers will rely on the display screen or a printout to verify the driver's compliance. However, the driver may be cited for a violation of 395.24(d) for not being able to transfer logs electronically.

If logs cannot be presented at all, then the driver will be placed out of service.

## Do your drivers know what to do?

When it comes to ELD transfers, the most common problems are caused by the drivers themselves. For example, it's not uncommon for drivers to:

- Ask officers for the password needed to open their ELD's roadside inspection mode,
- Ask for the inspector's personal email address so they can email their logs,
- Ask officers for technical support when transferring logs, or
- Hand their ELD to the officer and ask *them* to figure out how to transfer the records.

Make sure your drivers know what do. You must provide your drivers with written instructions describing how to produce and transfer their hours-of-service records to an inspector, without needing to ask for a password, an email address, or technical support.

It's also a good idea to perform hands-on training with drivers, simulating a roadside inspection so they know what to do during the real thing.

## Two options, four methods

ELDs must have the ability to transfer logs using a telematic or a local option, with each having two methods in case one doesn't work:

- Telematic: wireless web services and email, or
- Local: Bluetooth and USB 2.0.

Note that officers presented with a "telematic" ELD will generally prefer to use wireless web services over email, since email is more likely to result in delays.

Finally, keep in mind that failing to have a cell signal is not a valid excuse for being unable to transfer logs. Drivers may be cited for failing to transfer their logs even if they're stuck in a cell-signal dead zone.

If you feel a driver was unfairly cited for an ELD violation, you always have the option to challenge it using the online DataQs system. ♦



**Key to remember:** Citations issued to drivers for not being able to transfer their ELD data to an inspector will now harm your CSA scores. Make sure your drivers know how to transfer their logs.



# Happy anniversary, ELDT!

February 7 marks the one-year anniversary of the implementation of the entry-level driver training (ELDT) rule. So, how has it gone? What's next? Let's take a look.

## One year ago

February 7, 2022, marked the beginning of a new era for driver training. As of that date, ELDT is required for anyone:

- Obtaining an initial Class A or Class B CDL;
- Upgrading from a Class B to Class A CDL; or
- Obtaining an initial passenger, school bus, or hazardous materials endorsement.

Individuals must complete a course of theory and behind-the-wheel training offered by an entity listed on the Training Provider Registry (TPR), which is administered by the Federal Motor Carrier Safety Administration (FMCSA). To be listed on the TPR, an entity must meet specific requirements related to everything from curriculum to facilities.

An individual must successfully complete this training and have proof of completion prior to taking the skills test for the new license or endorsement. In the case of the hazardous materials endorsement, which doesn't require a skills test, proof of completion must be presented prior to taking the knowledge test.

## Early challenges

The early challenges revolved around making sure all drivers, motor carriers, and state driver licensing agencies (SDLAs) were on the same page when it came to understanding and applying the requirements.

Many drivers and carriers were unsure who was subject to the new rule. Training providers were unsure of the registration process. Some SDLAs needed to shore up their policies and procedures to match the rulemaking's requirements.

Within a few months, these questions subsided, and the issues became more driver and carrier specific.

## Frequently asked questions (FAQs)

After many had a solid grasp of the basics of ELDT, questions arose related to specific driver issues, such as removing restrictions from an existing CDL, upgrading a CDL, and adding endorsements to an existing CDL.

**Restrictions** — Many carriers and drivers posed questions related to the removal of restrictions on an existing CDL. Removal of restrictions, such as no manual transmission, no tractor-trailer CMV, or no air-brake-equipped CMV, do not require the completion of ELDT if the driver maintains the same class of CDL.

**Upgrades** — There was quite a bit of confusion related to the upgrade from a Class B CDL to a Class A CDL. A driver who is upgrading needs to complete theory and behind-the-wheel instruction as mandated in Appendix A to Part 380. The only difference — the driver must complete instruction in 22 theory topics as opposed to 30 topics for a new Class A.

**Adding endorsements** — Many questions were posed about adding an endorsement to an existing CDL. To add a passenger or school bus endorsement, the CDL holder needs to complete the endorsement-specific course of theory and behind-the-wheel instruction prior to taking the endorsement skills test. To add a hazmat endorsement, the CDL holder needs to complete the endorsement-specific course of theory instruction prior to taking the endorsement knowledge test.

## Waiver requests

As the year progressed, FMCSA started to receive ELDT-related exemption requests from various entities, including schools/training providers, trade-specific organizations/industries, individuals, and state government.

The requests ranged from wanting a complete exemption from the requirements to requesting a waiver from instructor requirements based on an individual's industry experience. So far, FMCSA has denied all exemption requests, stating the requested exemptions would not meet or exceed the level of safety in the existing regulation.

It is expected that exemption requests will continue in 2023.

## Looking into the future

So, what's in store for ELDT's second year?

Currently, there are over 24,000 training providers listed on the TPR. Over 4,500 of those training providers offer ELDT to the public. The list of training providers registered on the TPR is expected to continue growing.

With so many providers self-certifying that they meet the requirements to be listed on the TPR, there are calls for FMCSA to begin auditing training providers for compliance. It is expected that FMCSA will take steps toward an auditing process at some point this year. ♦



**Key to remember:** On ELDT's one-year anniversary, we look back on the challenges of the past year and forward to the continued education of safe, entry-level drivers.

# DOT makes remote SAP evaluations permanent

The U.S. DOT will continue to allow remote evaluations of drivers who have violated drug or alcohol testing rules and plans to turn the temporary policy into a permanent rule change.

Though regulations say face-to-face meetings between drivers and substance abuse professionals (SAPs) are required, the DOT has allowed them to be done remotely since April 2020, due to the COVID-19 pandemic.

## Part 40 to be amended

Though that temporary policy was due to expire at the end of 2022, the DOT says it will remain in effect until Part 40 is amended to allow for remote evaluations.

Under the policy, the SAP still must observe the driver in real-time, so high-speed video is the preferred method.

Doing remote assessments and evaluations is voluntary and SAPs may continue to conduct in-person assessments and evaluations as appropriate.

## DOT recommendations

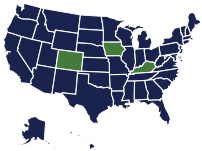
The DOT does not prescribe how remote evaluations should be conducted but says SAPs should consider:

- The technology used should allow real-time, two-way audio/visual interaction between SAP and employee.
- The SAP should determine if the quality of the technology (e.g., speed of the internet connection, clarity of the display) is sufficient for gathering all the non-verbal visual cues and audible information the SAP would normally observe in person.
- SAPs may use such technology only if their state-issued license authorizes them to do so, and they must operate within the parameters of that authority.
- The format used for the evaluation should be documented in the SAP's final report.

The changes to Part 40 were proposed on February 28, 2022, and are expected to be finalized this year. ♦



**Key to remember:** The DOT is continuing to allow substance abuse professionals (SAPs) to conduct remote driver assessments via video, and plans to make the change permanent.



## STATE UPDATES

### Colorado

#### FMCSR adoption proposed

The Colorado Department of Public Safety, Division of State Patrol has issued a proposal to adopt Parts 40, 380, 382, 385 Subparts C and D, 387, 390-393, 395, 396, 397, 399, and Appendix A to Part 396 of the Federal Motor Carrier Safety Regulations (FMCSRs) as in effect on October 1, 2022, with some modifications.



The grant's funds are administered as reimbursement following:

- Documented training certification, and
- A CDL exam within 30 days of a participant's first day of training.

The application deadline is February 3, 2023. More information is available at the Future Ready Iowa website: <https://www.futurereadyiowa.gov/entry-level-driver>.

### Iowa

#### ELDT grant program announced

A new grant program has been created to help training providers meet the new entry-level driver training (ELDT) requirements.



The Iowa Entry-Level Driver Training Program will provide \$6 million to support Iowa-based employers, employer consortiums, and nonprofits, who:

- Employ drivers who possess a commercial driver's license (CDL), and
- Provide ELDT either in-house or through partnership with third-party certified training providers.

### Kentucky

#### Fee increase

Effective January 1, 2023, the fee to obtain an electronic driving record will increase from \$5.50 to \$6.00.



The increase is intended to cover costs related to updating the web portal and additional online services offered by the Commonwealth of Kentucky and Transportation Cabinet.

A driving record may be obtained at: <https://secure2.kentucky.gov/DHROnline/>. ♦



# INDUSTRY CALENDAR

**2/1/2023 – 4/30/2023**

## OSHA 300A Posting

Companies are required to post OSHA Form 300A (Annual Summary) or equivalent.

**2/28/2023**

## IFTA decal grace period ends

Carriers have until the end of February to get current-year International Fuel Tax Agreement decals on their trucks.

**3/15/2023**

## Drug and Alcohol MIS Reports Due

Motor carriers who are selected to submit a Management Information System (MIS) report of their 2022 drug and alcohol testing results must complete the reporting by March 15, 2023.

**3/31/2023**

## Form M Filing

March 31 is the annual filing deadline for certain financial and operational records using the FMCSA's Form M or Form MP-1. More details are available at <https://bit.ly/3EvQKfs>.

**4/17/2023 – 4/21/2023**

## National Work Zone Awareness Week

**5/16/2023 – 5/18/2023**

## International Roadcheck

The next International Roadcheck inspection blitz takes place May 16-18, 2023, in the United States, Canada, and Mexico.

**July 9-15, 2023**

## Operation Safe Driver Week

Risky driving behaviors will be the target of this week-long safety event, scheduled for mid-July.

**8/20/2023 – 8/26/2023**

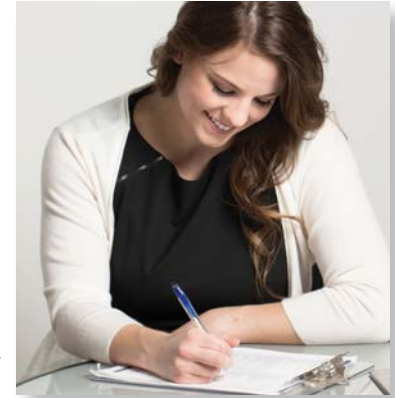
## Brake Safety Week

The annual brake safety enforcement and education campaign will take place during the week of August 20-26, 2023. ♦

## Expert Help: Questions of the Month

**Question:** Are owner-operators required to complete employment applications for themselves?

**Answer:** Yes, owner-operator must complete and sign an application just the same as a company driver would, per 391.21, which states that anyone who operates a commercial motor vehicle (as defined in 390.5) must have an application. An owner-operator's driver qualification (DQ) file must contain all the documents outlined in 391.51.



**Question:** When a driver is relieved from duty at one job and then goes to a second job, does that count towards their hours of service?

**Answer:** Yes, the hours worked at the second job do count against the driver's hours of service at their first job. Thus, the motor carrier (the first employer) must add those on-duty hours from the second job into the driver's weekly 60/70-hour calculation and also make sure the driver has 10 hours off after the second job ends each day. This means the hours must be reported to the first employer. This must be done on the driver's logs if the driver uses logs for the first employer, and the logs need to distinguish the hours worked for each employer. If the driver uses a short-haul time record, the hours could be added to that as long as it is signed and shows the total hours and the time at which the driver stopped all work each day. Otherwise, the first employer may need a seven-day time statement as described in 395.8(j)(2) each time the driver returns to driving for them. ♦

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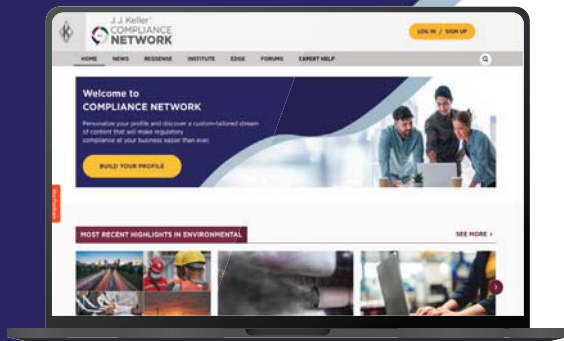
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