Sam Wortmann

AG Law

5/8/2017

Trucking Industry

On December 18th of this year there will be change in the trucking industry. The new Electronic Logging Device (ELD) will be flipping the switch. In late 2015 the Federal Motor Carrier Safety Administration had its release of the final rule for using the EDL. A lot of carriers got nervous about the change and the first question some people asked was is there a way around it? The answer to that is yes and companies who had the devices in the trucks already have found away. Before I get more into depth with the new rule coming out, I’m going to explain what the ELD is and what it does.

The ELD is a device that will hook up to the motor of the truck, and will keep track of where the truck is, speed, miles, how hard a driver may break, and has a breadcrumb trail of where the truck was at and what time. Most of the older drivers say they are going to retire when these come into effect. These are the drivers that also get the trials and then don’t want the device taken out. Not only does it help the company, but also it helps out the driver with less paperwork. Truck drivers can spend up to 11 hours a day driving, and up to 14 hours a day engaged in various duties such as fueling, filling out paperwork, obtaining vehicle repairs, and conducting mandatory vehicle inspections, this also includes the driving time.

The new ELD law doesn’t just affect the truckers; the enforcement side will need some serious preparation too. In a unanimous decision, the United States Court of Appeals voted on October 31st, 2016 to uphold the ELD Mandate in the case that was filed by the Owner-Operator Independent Drivers Association (OOIDA). Back in mid-September, OOIDA argued their case against the Department of Transportation to have the ELD Mandate overturned. In their case, OOIDA stated that the ruling should be vacated for five reasons. The first is that the ELDs won’t record enough information automatically because of the need for the human involvement. The second reason is that it fails to protect the driver from harassment because the term is not sufficiently defined. Number three is that the analysis performed by the FMCSA was flawed and the rule’s benefits will not outweigh its costs. This new rule also fails to protect the confidentiality of personal data that the ELDs will collect. The final reason is that the rule violates the Fourth Amendment’s prohibition against unreasonable searches and seizures.

What was the final decision? The court disagreed with all five of the points brought up by the OOIDA stating that the Mandate “is not arbitrary or capricious, nor does it violate the Fourth Amendment.” This Mandate was in fact legislated by Congress. Today, many drivers and fleets are using automatic on-board recording devices (AOBRDs) to reduce paperwork. These devices meet the standard covered in the FMCSA’s rule 395.15, which requires them to automatically record a driver’s duty status and any changes in status, as well as the amount of time they operate the vehicle. If requested by law enforcement, drivers must also be able to immediately present the required AOBRD display information for the previous seven days, plus the current day.

Unlike a similar case that overturned the required use of EOBRs back in 2011, the court’s decision to uphold the ELD Mandate means that it is here to stay, free of revisions or timeline extensions. The ELD Mandate requires all non-exempt drivers not currently using an AOBRD-compliant device to have a device installed by December 18, 2017. Any AOBRDs installed before that date can continue to be used without upgrade or replacement until the Grandfather Clause ends on December 16, 2019.

This ruling is a critical decision for FMCSA and the ELD Mandate in a time when they’ve both been the topic of some very heated conversations. The case’s decision seems to have solidified the Mandate’s place in the industry, for now, at least. It’s not worth waiting until the deadline to implement an ELD solution. Multiple fleets may be waiting around for the mandate deadline. By doing so, fleets are going to miss out on several benefits the ELDs can give them. When a fleet implements the ELD today they are immediately building ROI: they can slash fuel costs, reduce paperwork, increase communication with the driver, and charge for detention time. This will make the life easier for the commercial truck drivers by letting them focus on driving and not the driver’s logs. That also may mean that it will decrease accidents.

Another huge regulation in the trucking industry is height and weight limits. This has been around for a long time, but is very important. A reason on why a driver may exceed these limits is when it’s a busy time of the year, like hauling fertilizer like urea or map to the elevators. When the farmers are in the fields, the drivers need to be on their game and make sure these plants stay full, or hauling hay to Kansas to the ranchers who lost a lot. Most scales just let the driver go since it was for a worthy cause. The last reason is if elevators are getting full of wheat they may put extra in just to get it out of there. These limits will vary depending on the state the driver is in, but a truck can weigh no more than 80,000 pounds. Truckers can seek an oversized permit to exceed these limits though if necessary. Most of these weights are designed by a formula to protect the roads and bridges. The trucks go to a weight station or port-of-entry to have the trucks weight and size checked.

The numbers paint a clear picture of just how dangerous an oversized vehicle may be in an emergency, when a truck driver needs to avoid a collision. The sheer weight of an oversized truck may also put additional strain on the braking system and tires; tires may even explode while the truck is traveling at high speeds. When you take into consideration the fact that an oversized truck may be improperly loaded, all the potential hazards associated with these vehicles are compounded. Accidents aren’t always the truck driver’s fault though. Cutting off trucks, or following to close behind them is the reason for accidents too, but the main one is when a vehicle gets into their blind spot, then we all should know trucks can’t stop on a dime.

With these new rules and regulations, it will help keep things in order and most of all regulating things to keep us safe. Prevent tie ups in the truck stops and keep the road safe by preventing overweight loads. On the bright side with this change it does help with the paperwork, but everyone like to manage their business their way. Change is bound to happen it is just weather everyone is ready to adapt and change with the changing times in the new age of information.