



[DATE]

Commissioner Warren Stanley
California Highway Patrol
601 North 7th Street
Sacramento, CA 95811

RE: Electronic Logging Device Compatibility for Intrastate Short-haul Trucking Companies and Drivers

Dear Commissioner Stanley,

On behalf of the above organizations and companies that provide short-haul intrastate trucking services within California, we are writing to respectfully request that the CHP utilize the short-haul variance authorized under federal law when enacting California’s Electronic Logging Device (ELD) regulations for intrastate drivers.

On December 16, 2015 the Federal Motor Carrier Safety Administration (FMCSA) published its final rule mandating that drivers of commercial motor vehicles (CMVs) subjected to the US Secretary of Transportation’s hours-of-service (HOS) regulations (i.e. interstate drivers) utilize electronic logging devices (ELDs).¹ The compliance date for affected motor carriers and drivers was December 18, 2017.

CFR 49 Part 355 requires states (including California) to adopt laws and regulations applicable to “intrastate commerce [that] are either identical to, or have the same effect as, the Federal Motor Carrier Safety Regulations (FMCSRs) or fall within the established limited variances under §§350.341, 350.343, and 350.345.” Specifically, federal regulation permits California to extend its intrastate short-haul mileage radius exemption from 100 to 150 miles as an established variance.

§350.341 What specific variances from the FMCSRs are allowed for State laws and regulations governing motor carriers, CMV drivers, and CMVs engaged in intrastate commerce and not subject to Federal jurisdiction?

*(d) State laws and regulations applicable to intrastate commerce must not include exemptions based upon the distance a motor carrier or driver operates from the work reporting location. This prohibition does not apply to those exemptions already contained in the FMCSRs **nor to the extension of the mileage radius exemption contained in 49 CFR 395.1(e) from 100 to 150 miles (emphasis added).***

The California Highway Patrol (CHP) has indicated it is moving forward with a mandatory adoption of an ELD mandate for intrastate commerce as required by federal law. The undersigned urge the CHP to use this authorized federal variance when enacting its intrastate ELD rule and extend the short-haul mileage

¹ Electronic Logging Devices and Hours of Service Supporting Documents, Final Rule - <https://www.gpo.gov/fdsys/pkg/FR-2015-12-16/pdf/2015-31336.pdf>

radius exemption to 150 miles in California. It is important to note that this inclusion would not “exempt” any additional drivers from complying with the existing driving time limitations contained in the current hours-of-service rules. Rather, it merely permits those drivers operating under the short-haul exemption to utilize timecards to demonstrate hours-of-service compliance rather than logbooks or ELDs.

Numerous other states have already elected to utilize this specific variance from federal regulations. Some of those states that have elected to have a 150 mile radius short-haul are Florida, Texas, and Wisconsin. §350.345 describes how a state can apply to the Administrator (of FMCSA) for a variance that meets three requirements:

- (a) Achieves substantially the same purpose as the similar Federal regulation.*
- (b) Does not apply to interstate commerce.*
- (c) Is not likely to have an adverse impact on safety.*

California can easily meet all three requirements. Importantly, California has one of the best CMV safety stats when compared to all other states. California’s Large Truck and Bus Fatality Rates per 100 Million Total Vehicle Miles Traveled (VMT) is .09. The national average is .14.²

California CMV owners and operators have always worked proactively with CHP in improving the state’s CMV safety record. Many organizations supported CHP’s effort to reform the Basic Inspection of Terminal (BIT) program (codified by AB 529 in 2013), a unique motor carrier oversight program not duplicated in any other state.

The federal ELD mandate is intended to reduce incidents of fatigued operators being involved in a crash. However, its target is CMV operators whose HOS extend out for as much as a fourteen hours each day and once every seven days, a sixteen hour day is allowable in certain circumstances.³ Most drivers affected by the federal rule do not sleep in their homes each night. Short-haul operators do sleep at home each night and as a result get better restorative rest. Additionally it should be noted that California has achieved its impressive CMV safety stats while allowing twelve hours driving in a sixteen hour day and cumulatively eighty hours in eight days versus the federal eleven, fourteen and seventy hours in eight days.

A review of available fatigue related studies that focused exclusively on short-haul operations turned up studies roughly twenty years old that mostly suggested more studies were needed. The most recent congressionally mandated fatigue related study of drivers (incl. short-haul drivers) performed by Virginia Tech Transportation Institute showed that HOS provisions mandated by FMCSA that commercial drivers include at least two nighttime periods in restart breaks and limited use of the restart provision to once every 168 hours did not produce a net safety benefit from the two provisions on driver operations, safety, fatigue, and health.⁴

Finally, the federal rollout of the ELD mandate has exposed how flawed a one-size-fits-all mandate can be as well as crippling to agency resources as FMCSA deals with an onslaught of exemption requests

² See – FMCSA 2017 Pocket Guide to Large Truck and Bus Statistics. Page 37

³ §395.1 (o) Property-carrying driver

⁴ Commercial Motor Vehicle Driver Restart Study - <https://www.fmcsa.dot.gov/safety/research-and-analysis/commercial-motor-vehicle-driver-restart-study>

from each individual trucking industry; many of which have been granted, thus fostering even more exemption requests. CHP could very well expect a similar flood of exemption request to any mandate. Expanding California's short-haul HOS provision would likely avoid many such complications within the state.

For these reasons the following organizations and companies ask the CHP, for the purposes of an intrastate ELD mandate, to expand California's short-haul exemption for property carrying motor carriers from the current 100 air miles to 150 air miles. The allowable tour-of-duty hours would remain unchanged at twelve hours as federal regulations do not permit an expansion of the twelve hour work day for short-haul operations. This will allow a significant majority of CMV operators in California to continue to use time cards or time sheets as a way to meet their HOS compliance.

Thank you for your consideration of this reasonable request.

Sincerely,

Associations:

Western States Trucking Association
California Tow Truck Association
United Coalition for Motor Club Safety

Engineering Contractors' Association
American Concrete Pumping Association
California Moving & Storage Association

Companies:

Joe Gonzalez Trucking, LLC.
Pacific Steel Group
National City Transfer & Storage Co.
P. A. Parker, Inc.
Stockmyer Trucking, Inc.
Monzon & Son Enterprises, Inc.
Kellog Creek Aggregates Inc, dba Von Euw
Trucking
M & J Transportation Services Inc
Straight Up Trucking
Espinosa Trucking Co.
10-4 Magazine
D.Dhaliwal Trans, Inc.
Wyse Logistics
Nexus Pacific Transport
PATRON TRUCKING, INC.
EAN Trucking
Nunez Trucking ing
Saied Trucking Co.
JAS Industries
Bombay Transport, Inc.
Destinations
Oltman Trucking
Harris Transfer, Inc.
Stephens Trucking
Jrl Trucking LLC.

Form Transport
M4 Transportation
PR Trucking
Archer Trucking, Inc.
K-K Transport
Canatsey Trucking , Inc.
Joe Gonzalez Trucking, LLC.
Eagle Entity, Inc. dba Pacific Concrete Ready
Mix
K L Freeman Construction, Inc.
Goblirsch Trucking , Inc.
AB Trucking
Shane's Trucking, Inc.
Wings Century Trucking
Port Container Drayage Logistics
Narayan's Trucking, Inc.
Oakland port Services Corp
Andromeda Transport
D. Clenney Trucking
Brown Trucking LLC
Romani Trucking
Kent Harris Trucking & Materials