



ELD Does Not Equal Compliance

Understanding the complex, expensive, and far-reaching implications of the FMCSA's ELD Mandate



In the legend of the Gordian Knot, Alexander the Great is challenged to untie an intricate knot, said to be impossible to untie, except by the one destined to rule all of Asia. According to the story, Alexander uses a bit of creativity, slashes the knot open with his sword, and, ultimately, conquers Asia, thus fulfilling the prophecy.

If only complying with the Federal Motor Carrier Safety Administration's (FMCSA) final ELD mandate could be so easy. Unfortunately, simply putting the lowest-cost ELD in your vehicle may not suffice to render compliance. There are many considerations that go into complying with the latest mandate, which takes full effect on December 16, 2017.

This article will attempt to unravel the conundrum, and offer some guidance on what to do next, in order to meet the deadline with plenty of time and a few dollars to spare for your efforts.

About the FMCSA Final ELD Mandate

First, a bit of clarity on exactly what the ruling entails. In December of 2015, the FMCSA published its final ELD mandate, requiring that operators of specific commercial motor vehicles (CMV) replace their paper Hours of Service (HOS) logbooks with an ELD to electronically record the driver's Record of Duty Status (RODS). That said, the ruling does not apply to all CMVs; there are a few exceptions. In addition, the various supporting documents required to verify on-duty status under the ruling must be maintained over various lengths of time, depending on the specific document. Documents included in the mandate fit five categories:

- Bills of lading, itineraries, schedules, and equivalents
- Dispatch records, trip records, and equivalents
- Expense receipts
- Electronic mobile communication records transmitted through a fleet management system
- Payroll records, settlement sheets, and equivalents

Details on the length of time each document must be held and the criteria required for each document to pass an audit could add pages to this article, but suffice to say, the ruling is knotted with specifics.

Likewise, the details of what qualifies as an FMCSA-certified ELD can be tangled in nuance. Providers must be registered with the FMCSA and self-certify through the agency's website that their products meet technical specifications; however, the FMCSA does not initially vet any provider prior to inclusion on the website. Consequently, motor carriers find that some ELDs may not, ultimately, qualify for certification upon review by FMCSA / DOT enforcement personnel during roadside inspections or compliance audits.

And, while some previously installed devices have been grandfathered in for a grace period of two years, those devices that fall outside the grandfathered list must be replaced, or the motor carrier and driver will be subject to fines, penalties and possible shutdowns, depending on the violation and the violator.

Penalties will be assessed based on culpability and history of prior offense. Tampering with information or the ELD itself will escalate the penalty. Also, failure to retain the specified documents for the specified lengths of time is also a violation. With so much on the line, it's no wonder many drivers and motor carriers are scrambling to find a solution, as anxiety mounts across the industry.

3 Exception Classes to the FMCSA ELD Mandate:

The following three driver classes are exempt from compliance with the final ELD mandate of 12/16/17:

- Drivers who conduct driveaway-towaway operations where the vehicle being driven is the commodity being delivered
- Drivers of vehicles manufactured before 2000
- "Short-haul" drivers who are not currently required to prepare a driver log because they meet the 100-mile (CDL drivers) or 150-mile (non-CDL drivers) exemption; paper logs, however, still apply to this class

All others must comply.



A Fair Ruling Long in the Making

The ELD law is a good one, as it serves to protect both drivers and the driving public by automatically measuring a commercial driver's hours behind the wheel. Further, it is intended to reduce logbook falsification, enforce the HOS regulations, reduce paperwork and save untold administrative time in Hours of Service data capture for the driver and company. The use of certified ELDs will keep dispatchers adequately informed and up-to-date, and improve overall fleet and business planning, by arming decision-makers with current and running data on specific drivers, vehicles, and trends.

What's more, the mandatory deployment of ELDs across a fleet may also have some collateral benefits to fleet owners and operators. As not all ELDs are created equal, some models offer additional driver performance and vehicle diagnostics capabilities that can help a fleet manager lower fuel cost, for example, by monitoring fuel efficiency.

Using Internet of Things (IoT) technology, some devices can wirelessly report on vehicle equipment conditions, thus lowering vehicle downtime by alerting operators to perform timely repairs and aid in planning for improved vehicle utilization. This information, combined with data on driver tendencies, can also lower crash rates and provide records to negotiate better insurance premiums.

Choosing the Right ELD

According to FMCSA estimates, about one million vehicles will have to install ELDs once the law takes effect. The time to examine your options is **now**.

ELDs can range in price from \$150 to \$2,500 per vehicle. Multiply that times the number of vehicles you have in service, and you simply cannot afford to make the wrong decision, especially considering that not all ELDs qualify for FMCSA certification compliance. The cost of an incorrect decision is prohibitive.

With so many ELD providers now bombarding the market as the deadline draws nearer, you will need a strong vetting process to ensure your compliance dollars are well spent. The following key questions may help you narrow your search, not only making your decision within FMCSA / DOT legal boundaries, but also shedding light on any potential additional value the selected device might lend to your business moving forward.

At a Minimum, Qualified ELDs Must:

Connect to the truck's engine to record use-in-motion

Allow the driver to log on and register on / off duty status

Graphically display RODS

Provide standardized data for law enforcement (via wireless, USB, Bluetooth, etc.)



Choosing the Right ELD

- Is the ELD properly certified to meet FMCSA guidelines?
- Does it support daily vehicle inspection reports (DVIR) to verify compliance and simplify inspections?
- Does it track vehicle position history to meet IFTA and IRP record keeping requirements?
- Does it feature GPS to locate the vehicle on the map, providing 24/7 information to shippers regarding expected delivery dates and times?
- Does it provide data to dispatchers useful in planning deliveries and driver schedules?
- Does it support engine diagnostics for preventive maintenance alerts and planning of scheduled maintenance?
- Does it track driver performance and habits, capturing activities such as: hard breaking, seat belt usage, speeding or sudden stops to enable proactive, corrective action?
- What are the initial installation costs and time commitments, in addition to monthly, ongoing communication costs associated with the device's reporting services?
- How many vehicles will be outfitted (especially complex in mixed-fleet applications)?
- What level of driver / dispatcher / safety director training will be required to ensure compliance?
- What is your plan to ensure continued service delivery standards and FMCSA compliance in the event of driver turnover?
- Can you offset / recover associated costs by repricing your services?
- Does the ELD provider retain 6 months of Hours of Service and 5.5 years of IFTA / IRP raw source data?

As you may have concluded, choosing the right ELD will affect your compliance, operations, and productivity, altogether. By automating data recovery and retention, it can simplify your HOS data capture. With the right information in hand, liability and risk management can be positively affected. As you enhance your overall fleet visibility and gain insight into the status and trends of your equipment and personnel, asset management can be improved, thereby lowering your total cost of operation. In fact, by installing the right ELD for your business, you will most likely not only improve your driver safety, satisfaction and output, but also open new opportunities to deliver superior customer service and build brand loyalty.

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The Value of an Outside Opinion

With stakes so high and time at a premium, it makes sense to work with an independent advisor to assess your fleet needs in light of the ruling, and recommend a compliance solution that fits with your business objectives. An independent, trusted advisor has no vested interest in selling you a specific ELD unit and can provide objective analysis and input to guide your purchase decision.



Look for an advisor who understands the ruling and its implications, and can offer best practices beyond the deadline to ensure due diligence according to the law. A good advisor will be able to provide reasonably priced support services that help you manage data and risk, and will lead your compliance attainment initiatives as part of the service package. In addition, you will also benefit by working with an advisor who can assist in team training, fleet monitoring, data analysis and audit support; someone who demonstrates an in-depth knowledge of the broader regulatory landscape, including DOT, IFTA and IRP regulations.

Examine their track record, and see if they've performed in similar engagements for clients comparable to you in size, scope, and geography. Determine if they understand the technology, and assess whether they'll be able to provide you with a truly unbiased recommendation. Ask about their process of engagement and how they execute through ongoing support. If all blends well with the way you do business, follow up by contacting a few references.

Make the Most of Your ELD Decision

Simply finding and installing the lowest cost ELD device does not equal compliance. In the event your operations and vehicles meet the mandate:

- Be sure your device complies with the FMCSA guidelines.
- Obtain validation on your purchase decision from someone who does not have a vested interest in your final decision.

Whoever you buy from, be sure they have a track record in the telematics industry and will be there for you in the future to support your operations.

To summarize, there's no easy way to slash through the knotted complexities of the new FMCSA mandate or the far-reaching implications of choosing the right (or wrong) ELD. Inspectors will be in the field shortly. Talk to a qualified, independent advisor and make the right decision for your fleet now.

About the Author

John Vosters, Compliance Strategy Officer with ITS Compliance, has 37 years of regulatory industry expertise in fleet compliance and risk management solutions. John is active in many industry associations, including National Private Truck Council, American Trucking Association, and Truckload Carriers Association.

About ITS Compliance

ITS Compliance, Inc. provides outsourced compliance services to owners and operators of truck fleets. Our intelligent compliance platform combined with our dedicated team provide visibility and control over your fleet with proven safety, fuel tax reporting and asset management solutions. For over 30 years, ITS Compliance has helped private fleets, for-hire carriers and third party logistics companies comply with federal, state, and local regulations to reduce costs and mitigate risks.

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