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Fox Announces Approach for Autonomous Vehicles

Secretary of Transportation Anthony Foxx has [announced](#) that the Administration's fiscal year 2017 budget request to Congress includes nearly \$4 billion over ten years in funding to accelerate the development and adoption of safe vehicle automation through pilot projects. The funds would be used to test connected vehicle systems in designated corridors throughout the country, and to ensure a common multistate framework for connected and autonomous vehicles.

Secretary Foxx also unveiled policy guidance that updates the National Highway Traffic Safety Administration's 2013

Are You Sharing Your Driver With Another Company?

How does the Federal Motor Carrier Safety Administration address the use of a driver by multiple employers?

Answer: Yes, this situation is addressed in a number of ways throughout the regulations; however, it is confusing. Drivers that work part time, fall into a number of classifications:

1. Drivers that work for multiple employers on a regular basis.
2. Drivers who are regularly employed by a motor carrier and occasionally drive for another motor carrier.
3. An employee of a non-motor carrier and who occasionally or part time drives.

First let's take a look at the driver qualification process:

Multiple Employer Drivers

Multiple-employer driver means a driver, who in any period of 7 consecutive days, is employed or used as a driver by more than one motor carrier. This definition applies to a driver who regularly works part time for two or more employers.

If a motor carrier employs a person as a multiple-employer driver (as defined in §390.5 of this subchapter), the motor carrier shall comply with all requirements of this part, except that the motor carrier need not:

- Require the person to furnish an application for employment in accordance with §391.21;
- Make the investigations and inquiries specified in §391.23 with respect to that person;
- Perform the annual driving record inquiry required by §391.25(a);
- (a)(4) Perform the annual review of the person's driving record required by §391.25(b); or
- (a)(5) Require the person to furnish a record of violations or a certificate in accordance with §391.27.
- (b) Before a motor carrier permits a multiple-employer driver to drive a commercial motor vehicle, the motor carrier must obtain his/her name, his/her social security number, and the identification number, type and issuing State of his/her commercial motor vehicle operator's license. The motor carrier must maintain this information for 3 years after employment of the multiple-employer driver ceases.

A Driver who is regularly employed by a Motor Carrier and occasionally works for another Motor Carrier

§391.65(a) A motor carrier may employ a driver who is not a regularly employed driver of that motor carrier without complying with the generally applicable driver qualification file requirements in this part, if:

1. The driver is regularly employed by another motor carrier; and
 2. The motor carrier which regularly employs the driver certifies that the driver is fully qualified to drive a commercial motor vehicle in a written statement which—
- Is signed and dated by an officer or authorized employee of the regularly employing carrier;
 - Contains the driver's name and signature;
 - Certifies that the driver has been regularly employed as defined in §390.5;
 - Certifies that the driver is fully qualified to drive a commercial motor vehicle under the rules in Part 391 of the Federal Motor Carrier Safety Regulations;
 - States the expiration date of the driver's medical examiner's certificate;
 - Specifies an expiration date for the certificate, which shall be not longer than 2 years or, if earlier, the expiration date of the driver's current medical examiner's certificate; and
 - A motor carrier that obtains a certificate in accordance with paragraph (a)(2) of this section shall:
 - Contact the motor carrier which certified the driver's qualifications under this section to verify the validity of the certificate. This contact may be made in person, by telephone, or by letter.
 - Retain a copy of that certificate in its files for three years.

preliminary policy statement on autonomous vehicles. The new guidance reflects the reality that the widespread deployment of fully autonomous vehicles is now feasible.

Within six months, NHTSA plans to develop guidance on the safe deployment and operation of autonomous vehicles, providing a common understanding of the performance characteristics necessary for fully autonomous vehicles and the testing and analysis methods needed to assess them. In addition, within six months the agency intends to develop a model state policy on automated vehicles that offers a path to consistent national policy.

According to NHTSA, the goal of this effort is to accelerate the deployment of technologies that can eliminate 94 percent of fatal crashes involving human error.

A motor carrier which certifies a driver's qualifications under this section shall be responsible for the accuracy of the certificate. The certificate is no longer valid if the driver leaves the employment of the motor carrier which issued the certificate or is no longer qualified under the rules in this part.

An Employee of a Non-Motor Carrier who occasionally is a part-time driver for a Motor Carrier:

A person who drives for one motor carrier (even if it is only one day a month) would not meet the definition of an intermittent, casual, or occasional driver. The motor carrier must fully qualify the driver and maintain a qualification file as a regularly employed driver.

With all of that regulation said, it is still in the best interest of a motor carrier and the best liability protection to require all drivers regardless of employment status to complete a full qualification process with a complete file on each and every driver that operates a commercial motor vehicle.

Now, How does the Drug and Alcohol testing regulations address a shared driver?

Keep in mind that Drug and Alcohol regulations apply to drivers that operate commercial motor vehicles in excess 26,000 lbs GVWR or are transporting HM in placardable quantities or passengers.

Pre-employment testing: There is an exception to pre-employment testing found in CFR 382.301. However, there are many requirements to the exception and basically you are relying on the compliance of another motor carrier for your own compliance. As a better practice and your best liability protection, administer a Pre-employment Drug screen to all new drivers regardless of employment classification.

Random Testing: When a driver works for two or more employers, in whose random pool must the driver be included? Answer: The driver must be in the pool of each employer for which the driver works.

All other testing, post-accident, reasonable suspicion and follow-up testing would apply as any other driver.

And Finally, How do the Hours of Service regulations apply to shared drivers?

Drivers used by more than one motor carrier:

When the services of a driver are used by more than one motor carrier during any 24 hour period in effect at the driver's home terminal, the driver shall submit a copy of the record of duty status to each motor carrier. The record shall include:

- All duty time for the entire 24 hour period;
- The name of each motor carrier served by the driver during that period; and
- The beginning and finishing time, including a.m. or p.m., worked for each carrier.

Motor carriers, when using a driver for the first time or intermittently, shall obtain from the driver

a signed statement giving the total time on duty during the immediately preceding 7 days and the time at which the driver was last relieved from duty prior to beginning work for the motor carriers

Electronic Logging Devices

About the ELD Rule

The [electronic logging device \(ELD\) rule](#) is intended to help create a safer work environment for drivers, and make it easier, faster to accurately track, manage, and share records of duty status (RODS) data.

For carriers using AOBRDs (automatic onboard recording devices) before the rule compliance date December 18, 2017, the rule will replace AOBRDs with ELDs over a four-year implementation period.

An ELD synchronizes with a vehicle engine to automatically record driving time, for easier, more accurate hours of service (HOS) recording.

The rule applies to most carriers and drivers who are required to maintain RODS.

The ELD Rule:

- Specifies who is covered by the rule and exceptions to it.
- Provides for ELDS to be certified, registered, and listed on a FMCSA website.
- Includes technical specifications to ensure ELDs are standardized and compliant.
- Includes a phased [implementation timeline](#) to give drivers and carriers time to comply.
- Includes provisions to help prevent data tampering and harassment of drivers.
- Creates standard data displays and data transfer processes, making it easier to demonstrate compliance and faster to share RODS with safety officials.

ELD Rule Impacts

[Carriers and Drivers](#) who are subject to the rule must install and use ELDs by the appropriate deadline:

- Carriers and drivers who are using paper logs or logging software must transition to ELDs no later than December 18, 2017.
- Carriers and drivers who use AOBRDS prior to the compliance date must transition to ELDs no later than December 16, 2019.

[Enforcement Partners](#) must understand enforcement and compliance procedures during each implementation phase, and which regulatory guidance applies to each.

[ELD Manufacturers](#) must conform to ELD technical specifications, certify their ELDs, and register them with FMCSA.

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