

**“Ask The Law”™ offers Q & A’s**

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**Hours-of-Service and California 34-Hour rule questions  
answered by law enforcement officials as of Dec. 2007**

**Warning: Laws are subject to change without notice**

## **MAKING CHANGES TO YOUR LOGBOOK**

**Q:** On October 24, 2007, I went off duty at 15:30, and returned to work at 04:30 on October 26, 2007. I knew that I had completed a 34-hour reset, but on October 30, I was asked by my company to change the recap on my log for the 26th to show what their “logbook” program said I had. I explained to the people in the office that my hours were right, regardless of what their system said. They agreed with me. I did change the hours but I didn’t initial those changes. If I were to get in an accident, can I get in trouble for those changes? I know it is wrong to do this, but I felt obligated to do it, as I was directed to do so by my employer. I have the carbon copy of the original log, and I also have a copy of the changes they made me make. Is there anything I can do with these documents? Josh in Ohio

**A: Provided by [Jim Brokaw](#), formerly a Staff Sergeant with Nebraska State Patrol, Carrier Enforcement Division, Lincoln, Nebraska:**



The recap for your log is not a regulatory requirement. It doesn’t matter if it’s filled out or not. The recap is simply provided as a convenient way to help you keep track of your 60 or 70-hour rule. So, any changes or corrections you make to it would not be considered a violation of the regulations. But on the other hand, if the changes you were asked to make affected any of the times of day, locations, mileage, or any other required information in such a way that your log no longer accurately reflected your actual activities for that day, then you have falsified your record of duty. And from reading your question, you seem to be well aware of the seriousness of any violation involving falsification.

## **USING THE 34-HOUR RESTART IN CALIFORNIA**

**Q:** Is it permissible to use the 34-hour restart rule in California? Genevie in California

**A: Provided by [Officer Chris Sahagun](#), California Highway Patrol, Commercial Vehicle Section, Sacramento, California:**



Section 1212.5 of Title 13 of the California Code of Regulations (T-13 CCR) regulates the maximum driving time for drivers of commercial motor vehicles. **This Section has been amended and goes into effect on**

**November 11, 2007.** Subsection (a) refers to intrastate (California only) drivers. Subsection (b) refers to interstate drivers and requires them to comply with the federal driver hours-of-service regulations contained in Title 49, Code of Federal Regulations (T-49 CFR), Part 395. Section 1212.5(a) T-13 CCR states in part:

"(4) No motor carrier shall permit or require a driver, regardless of the number of motor carriers using the driver's services, to drive nor shall any driver drive, except as provided in Section 1212(k), for any period after having been on duty for 80 hours in any consecutive eight days."

"(5) For truck drivers listed in subsections (1) and (2), any period of eight consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours."

**On duty time, as mentioned in (4) above includes both driving time and on-duty not driving time. The 34-hour restart is only applicable to intrastate truck drivers. So, the answer is yes – as of November 11, 2007, you can use the 34-hour restart rule in California.**

## **FUELING UP DURING A 34-HOUR BREAK**

**Q:** If you are on a 34-hour restart and you are running out of fuel, can you get fuel during your break? Do you show it on your log? Donald in Texas

**A:** Provided by Senior [Trooper Monty Dial](#), Texas Highway Patrol, Commercial Vehicle Enforcement Division, Garland, Texas:



**This is another one of those answers you are not going to like.**

In Part 395.2, the definition of On Duty Time includes "All time inspecting, servicing, or conditioning any commercial motor vehicle at any time". So if you are on a 34-hour reset, you just broke the 34-hour reset by putting fuel in your tractor. Fueling is interpreted as servicing a commercial motor vehicle. To avoid breaking the 34-hour reset, fuel before you start your reset or after completing your reset.

**Please be advised that FMCSA's 11-Hour and 34-Hour rule could change on or before December 27, 2007. To keep up-to-date on FMCSA's Hours-of-Service rules, visit [www.olblueusa.org/HOS/update.html](http://www.olblueusa.org/HOS/update.html) often.**

## **LUNCH BREAKS FOR COMPANY DRIVERS**

**Q:** My company has told us drivers that it is mandatory that we take a 30-minute lunch break. We've been told we can't be driving and eating at the same time. Is there a card we can carry which states that during our lunch break we are relieved of being responsible for our loads and company trucks? Thanks. Jamie in Georgia

**A:** Provided by Senior [Trooper Monty Dial](#), Texas Highway Patrol, Commercial Vehicle Enforcement Division, Garland, Texas:

The only letter required to be kept is by the motor carrier, stating that a driver can show off duty during their meal breaks. A driver does not have to carry anything with them.

*The Ask The Law™ programs, which are provided as a public service by Ol' Blue, USA™, are an ongoing educational effort between Ol' Blue, USA and commercial law enforcement agencies. The specific purpose is to have truckers contact Ol' Blue, USA and pose questions to law enforcement officials relating to safety and legal issues concerning commercial vehicles. Truckers may submit questions at [www.askthelaw.org](http://www.askthelaw.org) .*  
**Warning: Laws are subject to change without notice. These interpretations were made in November 2007.**

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