

“Ask The Law”™ offers Q & A’s

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**Hours-of-Service rules and Drug Testing questions
answered by law enforcement officials as of Jan. 2008**

Warning: Laws are subject to change without notice

Please be advised that on December 11, 2007, FMCSA has issued an Interim Hours-of-Service Rule retaining the 11-hour rule and the 34-hour restart.

To keep up-to-date on FMCSA’s Hours-of-Service rules, visit www.OIBlueUSA.org/HOS/update.html often.

DRIVING LIMITS IN CALIFORNIA

Q: I drive in California only and get paid by the mile. Can I drive 12 hours non-stop between point A and point B with out stopping for lunch or checking out my rig?
Pat in California

A: Provided by Officer Chris Sahagun, California Highway Patrol,
Commercial Vehicle Section, Sacramento, California:



The classification of an intrastate driver and interstate driver is based on the load, not where the driver starts and stops. A California driver may drive from one location in California to another, however if the load is either coming from or going out of the state, then the driver is an interstate driver. Section 1212.5 of Title 13 of the California Code of Regulations (13 CCR) states in part:

“(a) Maximum driving time. Except as provided in Sections 1212(b)(1), 1212(f), 1212(i), 1212(j), 1212(k), and 1212(l), no motor carrier shall permit or require any driver used by it to drive nor shall any such driver drive:”

“(2) Intrastate Truck Drivers:

(A) More than 12 cumulative hours following ten consecutive hours off duty; or

(B) For any period after the end of the 16th hour after coming on duty following ten consecutive hours off duty.”

An intrastate driver may drive non-stop for up to 12 hours, however Section 1215, 13 CCR requires a daily pre-trip inspection. Additionally, a driver is responsible for ensuring the load is secure with both open and enclosed trucks and trailers.

GETTING ADEQUATE REST

Q: I am a delivery driver in CA and into NV. I have 2 overnight runs during the week, Mon-Tues, Thurs-Fri. I'm off Sat & Sun. My total driving and on-duty time is about 54 hours a week. No day goes over 14 hours or 11 hours driving. I take between 10 & 14 hours of rest before driving again. My company demands I only take 10 hours off-duty time. I was disciplined during a review for not doing it. 10 hours off is not enough for me to be well rested. My question is under the regulations 392.3 Ill or fatigued operator, can the company override my decision of what I determine how much rest I need to drive safely? Bryant in California

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



There are several things you can do.

1st, please talk with your company representatives about your situation. Explain your situation to them and see if all parties can come to an agreement.

2nd, as for 392.3 (ill or fatigued driver), all the company and DOT Regulations require is 10 consecutive hours off.

This is where it is important to communicate with the company as stated in the first part of my answer.

DRUG TESTING AND PRIVACY

Q: My Company performs regular random drug tests and they used to have a secure and private place to do it. Just recently they started doing it inside the locker room, in the open area of common access by anyone that walks in. Is this a common practice or the employee is allowed some privacy and would any law back it up? Someone has already been fired for refusing this procedure. Ed in Florida

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



A Collection Site must take 23 steps in making sure that your drug test is performed properly. To answer your question briefly, here are 3 samples of the 23 steps. 1) The collection of the specimen must be done in a private area. 2) If a room is used that allows access to other employees, then signs must be posted. 3) Collectors and operators of collection sites must take the steps listed in this section to prevent unauthorized access that could compromise the integrity of collections. To find more of the answers you are looking for, go online at http://www.dot.gov/ost/dapc/NEW_DOCS/part40.html?proc and scroll down to Subpart D – Collection Sites, Forms, Equipment and Supplies Used in DOT Urine Collections, look for § 40.43 “What steps must operators of collection sites take to protect the security and integrity of urine collections”? If you believe that your company is compromising the integrity of collections, you can contact Mr. Jim Keenan at FMCSA’s Enforcement & Compliance Office, at Ph: 202-366-2096 or Fax: 202-366-7908

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.

Warning: Laws are subject to change without notice. These interpretations were made on December 11, 2007.

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***** Page 3 of 3 *****