

“Ask The Law”™ offers Q & A’s

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Alcohol, Home Terminal, Cheating Logbook, questions answered by law enforcement officials as of July 2006

Warning: Laws are subject to change without notice

Alcoholic Beverage in my CMV

Q. Is there a penalty and/or fine for carrying a few beers in my truck’s fridge? I pretty much live on the road, spend a lot of time sitting at various places because I haul entertainment. I like to enjoy a few beers when I cook out. I do not consume beer on the days I work. I hate to buy a 6 pack then have to throw some away if I don’t finish off the pack because I can’t keep beer onboard. I understand that federal law says that if a bottle of beer is found in my truck’s fridge I will be shut down for 24 hours and fined \$3750. Is this true? Thanks, Tad in Maryland

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

“You are not going to like the answer I’m fixing to give you”. Operators of CMV’s cannot have a detectable amount or possess any alcoholic beverage unless it is manifested. See Part 392.5(a)(3) attached below.



(a)(3) Be on duty or operate a commercial motor vehicle while the driver possesses wine of not less than one-half of one per centum of alcohol by volume, beer *as defined in 26 U. S. C. 5052(a), of the Internal Revenue Code of 1954*, and distilled spirits *as defined in section 5002(a)(8), of such Code*. However, this does not apply to possession of wine, beer, or distilled spirits which are:

(a)(3)(i) Manifested and transported as part of a shipment; or

(a)(3)(ii) Possessed or used by bus passengers.

If a CMV operator is found with a detectable amount or possession of any alcoholic beverage, the driver will be placed out-of-service for 24 consecutive hours. See Part 392.5(c) attached below.

(c) Any driver who is found to be in violation of the provisions of paragraph (a) or (b) of this section shall be placed out-of-service immediately for a period of 24 hours.

(c)(1) The 24-hour out-of-service period will commence upon issuance of an out-of-service order.

(c)(2) No driver shall violate the terms of an out-of-service order issued under this section.

What Home Terminal do I use on my Logbook

Q. I live in Missouri and drive for a company based in California. Do I use California as my home terminal on my log, or my home address? If I use California as my home terminal, do I log on Pacific Time or Central Time? Thanks, John in California

A. (from [Officer Chris Sahagun](#), California Highway Patrol, Commercial Vehicle Section, Sacramento, Calif.):

Title 13 of California Code of Regulations, Part 1213 reads in part:



(g) Driver responsibility. The driver's activities shall be recorded in accordance with the following provisions:

(6) Name of carrier. The name(s) of the motor carrier(s) for which work is performed shall be shown on the form containing the driver's duty status record. When work is performed for more than one motor carrier during the same 24-hour period, the beginning and finishing time, shown a.m. or p.m., worked for each carrier shall be shown after each carrier's name. Drivers of leased vehicles shall show the name of the motor carrier performing the transportation.

(8) Time base to be used. (A) The driver's duty status record shall be prepared, maintained, and submitted using the time standard in effect at the driver's home terminal, for a 24- hour period beginning with the time specified by the motor carrier for that driver's home terminal. (B) The term "seven or eight consecutive days" means the seven or eight consecutive 24-hour periods as designated by the carrier for the driver's home terminal.

If your carrier designates your home terminal to be in California, then you will use California time.

I have to Cheat on my Logbook

Q. I have a question about hours of service. We haul live turkeys to a kill plant. I have a recurring problem with not having enough hours to make the full trip and arrive at my set delivery time. The only way I seem able to make my appointments is to cheat on my logbook. What options do I have? Josh in *Minnesota*

A. (from [Sgt. Jim Brokaw](#), Nebraska State Patrol, Carrier Enforcement Division, Lincoln, Neb.):

The only option I can see is to renegotiate your delivery time with the kill plant. The hours of service are law; they aren't something you can so call "cheat on". 49 CFR 395(e) states: "Failure to complete the record of duty activities of this section or §395.15, failure to preserve a record of such duty activities, or making of false reports in connection with such duty activities shall make the driver and/or the carrier liable to prosecution. " And §390.35 titled "Certificates, reports, and records: falsification, reproduction, or alteration" states:



"No motor carrier, its agents, officers, representatives, or employees shall make or cause to make:

... (b) A fraudulent or intentionally false entry on any application, certificate, report, or record required to be used, completed, or retained, to comply with any requirement of this subchapter or Part 325 of Subchapter A; ...

Intentionally falsifying your log book also is concealing hours of service violations. These activities can carry severe penalties. **Should FMCSA audit your records of duty and find violations, they have the power to assess civil penalties that can range as high as \$11,000 per violation per day of occurrence of the violation. Please note penalties and prosecution can be both the driver and the carrier.**

*The Ask The Law™ programs, which are provided as a public service by Alcoa Wheel Products™, 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 in June 2006.***

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