

## “Ask The Law”™ offers Q & A’s

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Submit your questions to [www.AskTheLaw.org](http://www.AskTheLaw.org).

## HOS and SafeStat questions answered by law enforcement officials as of Oct. 2009

**Warning: Laws are subject to change without notice.  
These interpretations were made on September 10, 2009.**

### Join us at The Truck Show - Latino

In Pomona CA, October 17 & 18. You can visit [www.SafetyTour.org/](http://www.SafetyTour.org/) to find out more about this and other Ol' Blue, USA events.

### Logging On-Duty Not Driving Time

**Q:** Do the on-duty not driving hour's count as driving hours toward the 70-hours in 8 days limit? Thank you so much, Victor in California

**A:** Provided by Sgt. James Portilla, California Highway Patrol, Commercial Vehicle Section, Sacramento, California:

Yes. Title 49 Code of Federal Regulations Part 395 specifically states that a driver cannot drive after being “on duty” for 70 hours in an eight day consecutive period. All time a driver spends on duty not driving and on duty driving counts towards the 70-hour workweek in an eight-day consecutive period. The regulation does allow a driver to reset a 70-hour workweek in an eight-day consecutive period by taking 34 or more consecutive hours off duty.



### The Importance of SafeStat Scores

**Q:** I currently work as a company driver for a company that has great SafeStat scores (DOT # xxxxxx) and have been looking into becoming an owner operator leasing on with a company that does not have a very good SafeStat score (DOT # xxxxxx). If I lease on with the carrier with a poor SafeStat score - what effect will that have on me and how often will I get pulled in for inspections just because of the poor SafeStat score?  
Thanks, Lyle in Wisconsin

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

It is not my place to recommend one company over the other, but since you included the DOT numbers for both motor carriers, I went to FMCSA's website and looked under Safety & Security, and here is what I



found. Your current company has an ISS (Inspection Selection System) score in the low 20's. The company you are looking at going to has an ISS score in the high 90's. The ISS score is used at roadside to select which trucks are going to be stopped and inspected.

Your current company has Driver Scores of 13 and Vehicle Scores of 3.8. The company you are looking at going to has a Driver Scores of 95 and Vehicle Scores of 68.

Your current company has had a Compliance Review and received a Satisfactory Rating. The company you are looking at going to has never had a Compliance Review and thus is not rated. Something else you are going to have to consider, under current FMCSA Regulations a company's ability to stay in business is based on the Compliance Review process. Starting in 2010, FMCSA is moving to a new system. CSA 2010 is going to be based solely on the Roadside Inspections. If a company receives Roadside Inspections with a lot of violations listed, this could have an impact on the company's ability to stay in business unless they make a lot of changes. Some company's have to ability to make the changes while other cannot, which could result in the company being given an Order to Cease Operations.

I do not know how often you are stopped roadside and inspected with your current company, but if you do decide to go to the other company, plan on getting stopped a whole lot more.

Now with all of that being said, I am not a driver, so the decision is going to have to be made by you and you alone. Some of the decisions you are going to have to make are these; Is it worth going to another company only to spend a lot more time getting inspected.

Is it worth making this major investment only to find out in the next year or two that FMCSA issues an Order to Cease Operation because the company cannot make the required changes to comply with the DOT Regulations, and finally, how much more money will you be making knowing that you will now have to be paying for everything.

When I was working the road, I talked with a lot of drivers who talked about one day being able to join the ranks of owner/operators. I also talked to a lot of current owner/operators who had made the mover who regretted making the move. Every one of them talked about how much more difficult it was to make ends meet. They also felt that being an owner/operator they were being nicked and dined to death. I do not know what your current financial situation is, but be sure and do your homework. Know exactly what you are up against.

If you do make the decision to join the ranks as an owner/operator, I wish you all the best and hope you have made the right decision.

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*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).*

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