

“Ask The Law”™ offers Q & A’s

Brought to you as a public service by



Submit your questions to www.AskTheLaw.org.

Points, Logbook and Sleep Apnea questions answered by law enforcement officials as of Sept. 2009

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

Coming in October – Truck Show Latino

Visit our Ol’ Blue, USA “Safety Center”™ October 17 & 18 in Pomona California. Read more about this event and other activities on our Website at www.SafetyTour.org/.

CDL Points for Overweight Tickets

Q: Does a CDL accumulate points for overweight tickets? Ron in Nebraska

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

Points assessed for traffic violations can vary from state to state, but generally overweight violations are not considered moving violations and points are usually not assessed. Nebraska Revised Statute 60-4,182 lists the points assessed for the numerous traffic violations and it specifically excludes violations for overwidth, overheight, overlength, and overloading of trucks. So in Nebraska, a ticket for overweight will not assess any points to your CDL. I hope this sufficiently answers your question.



Rewriting your Logs

Q: Is it legal for a company to have drivers rewrite logs to match qualcomm info? Jay in New Mexico

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

According to federal interpretations in Title 49 CFR 395.8, a company may return a driver’s completed log for correction of inaccurate or incomplete entries. Any method of correction would be okay as long as the driver certifies that all entries are true and correct. It is not legal to rewrite logs with information that is not correct. Additionally, falsified logs cannot be corrected. Your company may ask you to rewrite logs based on Qualcomm information if the Qualcomm information is correct.



Using Two Log Pages for the Same Date

Q: First Question: Is there any circumstance where it would be appropriate for a driver to complete two separate log pages for the same date? For example: the driver is relieved of duty at 8am, he ends his day. He returns to work later on the same date at 8pm, and starts a new page showing on duty at that time. **Second Question:** Is it acceptable for a driver to log noon to noon instead of midnight to midnight to keep a shift that crosses midnight on the same log page? Thank you, Jennifer in California

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



Let me answer your second question first. There is nothing that prohibits a motor carrier from selecting a starting time on their logbooks. The only requirement is the log sheet must cover a 24-hour period. See 395.8(f)(8).

In fact, there are a lot of LTL motor carriers that will use a 12 noon to 12 noon log for their drivers that run terminal to terminal. The reason being is so their driver's trips are on a single page rather being on 2 separate pages for one tour of duty.

The first question is a big NO, unless the driver is using a log that meets the above answer. A driver's log has to account for a 24-hour period on a single log page. With the driver ending one shift at 8am and starting a new shift at 8pm and having them on two separate pages would constitute a violation of 395.8(f)(8).

Sleep Apnea Testing

Q: Can a Trucking company require all existing drivers (employees and independent contractors) to be tested for Sleep Apnea? Bill in Texas

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



Currently when a driver goes in to renew or get a new DOT Physical, there is a question that deals with Sleep Apnea. If the driver answers no, the driver is not questioned any further. If the driver answers yes, then the driver is questioned extensively about Sleep Apnea and the driver could possibly be sent for a sleep study.

There are, however, some changes coming soon by FMCSA that will require drivers with a body mass index (BMI) over a certain amount, or if the driver states they have Sleep Apnea, to have a sleep study done before they will be issued a DOT Physical.

Your company may be taking a pro-active approach by having all of their drivers tested before it becomes mandatory.

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

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 .

Founded in 1986, Ol' Blue, USA is a non-profit organization dedicated to highway safety education and to improving relations between the motoring public, law enforcement and commercial drivers. "Ask The Law"™ is a registered trademark of Ol' Blue, USA. This column is copyrighted© by Ol' Blue, USA.

###