



News brought to you by

# INHBPAA

Indiana Horsemen's Benevolent and Protective Association



## Information Regarding CDL/ELD Requested from the March 2018 Full Board Meeting

Letter and information provided by National HBPA and as noted.

Dear NHBPA Affiliates and Members,

As a follow up to the request served to me at the 2018 March Full Board Meeting I am disseminating the following information regarding Commercial Drivers' Licenses (CDL) and Electronic Logging Devices (ELD).

Please forward this information to your Affiliate membership.

The Federal Motor Carrier Safety Administration (FMCSA) followed their [recent conference call with the NHBPA and other AHC members and AHC staff](#), by releasing two documents on the existing Commercial Driver License (CDL) regulations and how those regulations impact the horse industry.

The guidance titled "Agricultural Exceptions and Exemptions to the Federal Motor Carrier Safety Administration Hours of Service (HOS) and Commercial Driver's License (CDL) Rules" and "Non-Business Related Transportation of Horses" explain how published FMCSA guidance provides an exception for the transportation of horses when the transportation in question is not business related (neither for compensation, nor where the driver is engaged in an underlying business related to the move). In these cases, the Federal Motor Carrier Safety Regulations do not apply, even if prize or scholarship money is offered. This includes the Hours-of-Service (HOS) regulations, requirements for Electronic Logging Devices (ELD) and CDL regulations, unless required by the driver's home state. Both documents contain example scenarios that may help horse owners better understand the regulations as they exist today.

The documents can be found on the FMCSA website at:

<https://www.fmcsa.dot.gov/hours-service/elds/non-business-related-transportation-horses>

<https://www.fmcsa.dot.gov/hours-service/elds/agricultural-exceptions-and-exemptions-federal-motor-carrier-safety>

Summary is below:

### Non-Business Related Transportation of Horses Frequently Asked Questions

#### 49 CFR § 390.3(f)(3) "Occasional use" exemption

**Question:** Does the exemption in [§390.3\(f\)\(3\)](#) for the "occasional transportation of personal property by individuals not for compensation nor in the furtherance of a commercial enterprise" apply to persons who **occasionally use commercial motor vehicles** (CMVs) to transport horses to races, tournaments, shows or similar events, even if prize money is offered at these events?

**Guidance:** 49 CFR §390.3(f)(3) provides an exemption for the "occasional transportation of personal property by individuals not for compensation nor in the furtherance of a commercial enterprise." This exception is explained in the [FMCSA's regulatory guidance for Part 390, question 21](#). If a person meets the requirements of that exemption, they are not subject to the FMCSRs, including the requirement for using an ELD. **Question 21: Does the exemption in §390.3(f)(3) for the "occasional transportation of personal property by individuals not for compensation nor in the furtherance of a commercial enterprise" apply to persons who occasionally use CMVs to transport cars, boats, horses, etc., to races, tournaments, shows or similar events, even if prize money is offered at these events?**

**Guidance:** The exemption would apply to this kind of transportation, provided: (1) The underlying activities are not undertaken for profit, i.e., (a) prize money is declared as ordinary income for tax purposes, and (b) the cost of the underlying activities is not deducted as a business expense for tax purposes; and, where relevant; (2) corporate sponsorship is not involved. Drivers must confer with their State of licensure to determine the licensing provisions to which they are subject.

#### Electronic Logging Device (ELD)

##### Scenario 1:

**Question:** If a driver transports a horse in interstate commerce in a vehicle that has a GVWR or GVW (or combination vehicle that has a GVWR, GVW, or GCWR), none of which is greater than 10,000 pounds, is the driver required to use an ELD?

**Guidance:** No. A driver who transports a horse in interstate commerce in a vehicle that has a GVWR, GVW (or combination vehicle that has a GVWR, GVW, or GCWR), none of which is greater than 10,000 pounds, is not subject to the FMCSRs and is, therefore, **not required to use an ELD**.

##### Scenario 2:

**Question:** If a driver transports a horse only in intrastate commerce is the driver required to use an ELD?

**Guidance:** In general, the FMCSRs do not apply to intrastate commerce; however, States have similar regulations that may vary from Federal regulations and from State-to-State. A driver in intrastate commerce should check with the commercial motor vehicle enforcement authorities in that State to determine which regulations apply.

##### Scenario 3:

**Question:** If a driver transports a horse in interstate commerce in a vehicle that has a GVWR or GVW (or combination vehicle that has a GVWR, GVW, or GCWR), any one of which is 10,001 pounds or greater, and the driver **does not** qualify for the "occasional use" exemption in §390.3(f)(3), is the driver required to use an ELD?

**Guidance:** Yes. A driver who transports a horse in interstate commerce in a vehicle that has a GVWR or GVW (or combination vehicle that has a GVWR, GVW, or GCWR), any one of which is 10,001 pounds or greater, and the driver does not qualify for the "occasional use" exemption in § 390.3(f)(3), is required to use an ELD unless subject to one of the ELD exceptions.

##### Scenario 4:

**Question:** If a driver transports a horse in interstate commerce in a vehicle that has a GVWR or GVW (or a combination vehicle that has a GVWR, GVW, or GCWR), any one of which is 10,001 pounds or greater, and the driver **does** qualify for the "occasional use" exemption (See Above) in § 390.3(f)(3), is the driver required to use an ELD?

**Guidance:** No. A driver who transports a horse in interstate commerce in a vehicle, or combination vehicle, that has a GVWR or GVW of more than 10,000 pounds, and the driver does qualify for the "occasional use" exemption in § 390.3(f)(3), is not subject to the FMCSRs and is therefore not required to use an ELD.

#### Commercial Driver's License (CDL)

**Note:** Drivers must confer with their State of licensure to determine the licensing provisions to which they are subject.

##### Scenario 1:

**Question:** If a driver transports a horse in intrastate or interstate commerce in a vehicle, or combination vehicle, that has a GVWR or GVW of more than 10,000 pounds but less than 26,001 pounds, is the driver required to have a CDL?

**Guidance:** No. A driver who transports a horse in intrastate or interstate commerce in vehicles, or combination vehicles, that have a GVWR or GVW of more than 10,000 pounds but less than 26,001 pounds are not required to have a CDL.

##### Scenario 2:

**Question:** If a driver transports a horse in interstate or intrastate commerce in a vehicle, or combination vehicle, that has a GVWR or GVW of more than 26,000 pounds in interstate or intrastate commerce, is the driver required to have a CDL?

**Guidance:** A driver who transports a horse in a vehicle, or combination vehicle, in interstate or intrastate commerce **may** be required to have a CDL if:

1. The vehicle has a GVWR or GVW of 26,001 pounds or more; or
2. The combination vehicle has a gross combination weight rating or gross combination weight of more than 26,000 pounds, whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds.

Additionally, DOT has established a specific email address for agricultural specific questions at [agricultural@dot.gov](mailto:agricultural@dot.gov). This address will be used to generate a future F.A.Q. page.

The NHBPA encourages our members to share their questions to the DOT email as well to better highlight the existing concerns regarding the interpretation of CDL regulations. If clarifications and the F.A.Q. fail to address the concerns of our members, then the AHC will continue their efforts and pursue both legislative and regulatory solutions.

Eric J. Hamelback  
CEO, The National HBPA  
3380 Paris Pike  
KY Training Center  
Lexington, KY 40511  
859-707-1452 Cell  
859-259-0451 Office