

New commercial transportation safety mandate to be implemented April 1 amid continuing horse owners' confusion.

by Kim F. Miller

"If you're not a little confused, you're not thinking clearly."

Absorb this quote from a wise graduation speaker and take a deep breath before attempting to figure out whether the "electronic logging device" regulations apply to you. If you never haul your own or somebody else's horse, you can stop reading now. If you occasionally haul your own or somebody else's horses, but never for a fee and not in pursuit of prize money, you can pretty safely stop reading. Everyone else: better keep reading.

A new rule mandating the use of electric logging devices (ELDs) on commercial vehicles used for hauling was supposed to go into effect nationally last December.

The rule's origins date back to 2012, when the Obama administration got going with its "Moving Ahead For Progress in the 21st Century Bill." The bill added provisions meant to help the Federal Motor Carrier Safety Administration reduce crashes, injuries and fatalities on large trucks and buses. An ELD syncs with the vehicle's engine to log driving time, routes taken, vehicle speed and mandatory rest periods. The ELD mandate went into effect in 2015, but there was a two-year grace period -- ending in December 2017 -- designed to educate those affected by it.

The American Horse Council has been lobbying for more time to look into the bill's effect on the equine industry and helped secure the current three-month enforcement deferment that ends on April 1.

As the December implementation deadline loomed, concern and perplexity surrounding the issue escalated. Well-intentioned, but inaccurate information circulating on social media made

things worse. Even though regulations regarding commercial driver's licenses and commercial vehicles have been in place for decades, the confusion over ELDs has triggered new confusion about who needs a commercial driver's license and what horse-hauling set-ups meet the definition of a commercial vehicle.

AHC's Cliff Williamson, director of health and regulatory affairs, believes the ELD rule will affect very few individual horse haulers and says there are exemptions that will likely cover most trainers. Those most affected are those who already have a commercial driver's license and have been required to log their driving hours on paper for many years. Further, enforcement of the federal law regarding commercial driver's licenses and commercial vehicle definitions varies from state to state. It should not be taken lightly, Williamson emphasizes, yet he notes, "I have not had one first-hand account of being issued a citation for not having a CDL or for having the wrong one."

Lack Of Outreach

The Council has led the charge for a further delay of ELD enforcement, believing that outreach to the equine industry was insufficient and that modifications should be made for our industry. An informational webinar hosted by the AHC on Feb. 12 clearly established that there is little understanding among horse owners about whether they need the ELD, or a CDL or CMV status for their rig, for that matter. A Highway Patrol officer from an East Coast state was on the call to help clarify matters, but was unable to shed much light on specific situations because the laws have so many layers. One hypothetical example is a truck and trailer that are below the gross weight that is one definition of a commercial vehicle, but that trailer is hauling a horse to a show where it might win prize money, which could be construed as a "commercial endeavor."

The logging device is mostly an issue for those required to have a commercial driver's license and/or those driving vehicles classified as commercial and that require registration with the Department of Transportation. Truck and trailer rigs weighing in excess of 26,000 pounds must be driven by someone with a commercial driver's license. A vehicle must be classified as a CMV if it weighs over 10,001 pounds or is used for interstate commerce. The weight part of that is pretty straight-forward. Less so is the federal law that a commercial driver's license is also required if the purpose of the vehicle is considered to be commercial. Commercial horse haulers clearly fit the law's definitive phrase: "furtherance of a commercial enterprise," as do most trainers whose business includes rigs that regularly haul clients' horses to shows.

The amateur hauling their horse to a show where they might win prize money? That area is

several shades of gray. That person could be exempt from needing a CDL if they reported that prize earning as regular income and did not claim expenses related to earning it as an income deduction on their taxes. If they picked up a friend's horse en route to the show and accepted money for gas, however, some fear that that could be deemed a commercial purpose.

Most “Regular” Haulers Should be OK

Williamson believes that most individuals hauling their own horses won't run afoul of the ELD mandate. Fielding calls since last fall about this issue, the AHC has “been telling 4H families and local show attendees that they should keep riding and doing what they've been doing,” he says.

The Council advises horse owners to call local branches responsible for enforcement the Federal Motor Carrier Safety Administration regulations. Officer Coleman of the FMCSA California Field division confirmed that is the best way to be sure about whether your situation requires a CDL and/or the ELD. At present, he noted, California has not adopted the ELD mandate for intra-state travel, though it may in the future. As of April 1, it will apply to inter-state travel and for those hauling horses across states more than eight days in a 30-day period. (The California FMCSA Field Division phone number is 916 930 2760)

The American Horse Council will continue working with the legislature to clarify the issue and lobby for amendments that make it fair for the equine industry. Another informational webinar on the issue is in the works, too.

The Council explained its position in a press release in the fall of 2017. “We are disappointed that the FMCSA did not feel the need to reach out to the larger livestock industry stakeholders prior to finalizing this rule, but specifically for not reaching out to the equine industry considering the constant and repeated travel inherent to the competitive, coast-to-coast nature of our industry.

“While horse haulers are able to provide more accommodating shipping conditions compared to other livestock sectors, the issues we have with immediate implementation of the rule mirror those of the larger animal agriculture community. The American Horse Council will continue to petition for an enforcement delay, to be followed by a waiver and/or limited exemptions from compliance with the final rule on ELDs, and specifically the expected Hours of Service (HOS). Additionally we will continue to take advantage of any opportunity to collaborate with FMCSA

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and the DOT during this delay to better meet the needs of the animal agriculture community on future regulatory efforts.”

Visit the American Horse Council's website at www.horsecouncil.org to follow this and other issues affecting the equine industry. □

The Gallop welcomes news, tips and photos. Contact Kim F. Miller at kimfmiller1@mac.com or 949-644-2165.