FMCSA-HOS-ELD-395-FAQ63(2017-04-03)-CORR1

**Question:** What is the definition of harassment in the Electronic Logging Device (ELD) rule?

**Guidance:** In 49 CFR [390.36(a)](https://www.ecfr.gov/current/title-49/subtitle-B/chapter-III/subchapter-B/part-390/subpart-B/section-390.36#p-390.36(a)), FMCSA defines harassment as an action by a motor carrier toward one of its drivers that the motor carrier knew, or should have known, would result in the driver violating hours of service (HOS) rules in part [395](https://www.fmcsa.dot.gov/regulations/title49/part/395) or § [392.3](https://www.ecfr.gov/current/title-49/subtitle-B/chapter-III/subchapter-B/part-392/subpart-A/section-392.3). These rules prohibit carriers from requiring drivers to drive when their ability or alertness is impaired due to fatigue, illness, or other causes that compromise safety. To be considered harassment, the action must involve information available to the motor carrier through an ELD or other technology used in combination with an ELD. In § [390.36(b)](https://www.ecfr.gov/current/title-49/subtitle-B/chapter-III/subchapter-B/part-390/subpart-B/section-390.36#p-390.36(b)), FMCSA explicitly prohibits a motor carrier from harassing a driver.

**Contact Info:** FMCSA ELD Information, 1-800-832-5660 or ELD@dot.gov.

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*Note: This guidance document does not have the force and effect of law and is not meant to bind the public in any way. It is intended only to provide information and clarity regarding existing requirements under the law or agency policies.*

**Regulatory Topic: ELD Guidance**

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