FMCSA-HOS-ELD-395-FAQ64(2017-04-03)-CORR1

**Question:** How does the Electronic Logging Device (ELD) rule address harassment of drivers using ELDs?

**Guidance:** The ELD rule has provisions to prevent the use of ELDs to harass drivers. Under 49 CFR [390.36](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 explicitly prohibits a motor carrier from harassing a driver, and provides that a driver may file a written complaint under § [386.12(b)](https://www.ecfr.gov/current/title-49/subtitle-B/chapter-III/subchapter-B/part-386/subpart-B/section-386.12#p-386.12(b)) if the driver was subject to harassment. Technical provisions that address harassment include a mute function to ensure that a driver is not interrupted in the sleeper berth. Furthermore, the design of the ELD allows only limited edits of an ELD record by both the driver and the motor carrier’s agents, and in either case, the original ELD record cannot be changed. As a result, motor carriers will be limited in forcing drivers to violate the hours of service (HOS) rules without leaving an electronic trail that would point to the original and revised records. The driver certification is also intended, in part, to protect drivers from unilateral changes—a factor that drivers identified as contributing to harassment.

Harassment will be considered in cases of alleged HOS violations; therefore, the penalty for harassment is in addition to the underlying violation under § [392.3](https://www.ecfr.gov/current/title-49/subtitle-B/chapter-III/subchapter-B/part-392/subpart-A/section-392.3) or part [395](https://www.fmcsa.dot.gov/regulations/title49/part/395). An underlying HOS violation must be found for a harassment penalty to be assessed.

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*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**

Effective Date: Monday, April 3, 2017

Issued Date: Monday, April 3, 2017