



Commercial Vehicle Safety Alliance

Improving commercial motor vehicle safety and enforcement

Exemptions

The Commercial Vehicle Safety Alliance (CVSA) opposes the inclusion of exemptions from federal safety regulations in legislation.

- Specifically, CVSA opposes any effort to roll back the electronic logging device (ELD) mandate or exempt a portion of the motor carrier industry from the requirements.
- If exemptions are included in legislation, CVSA supports including a delayed implementation date of 18 months between when legislative exemptions are passed and when they go into effect and requiring all drivers who wish to operate under an exemption from the FMCSRs to carry proof of eligibility under that exemption.

The Federal Motor Carrier Safety Regulations and the Hazardous Materials Regulations exist to protect those who use our nation's roadways and to ensure that those operating in the transportation industry are equipped to do it safely. Consistent safety regulations and uniform enforcement help to ensure the motor carrier industry has a clear set of minimum safety requirements. In general, exemptions from federal safety regulations have the potential to undermine safety, while also complicating the enforcement process. First and foremost, safety regulations exist to protect those who use our nation's roadways. Furthermore, every new exemption is an opportunity for confusion and inconsistency in enforcement, which undermines the very foundation of the federal commercial motor vehicle enforcement program—uniformity.

However, there may be instances when exemptions could be appropriate and also not compromise safety. Recognizing that, 49 USC § 31315(b) already provides a mechanism for those in industry to obtain an exemption through an administrative process. This process includes providing for an equivalent level of safety, requiring that the exemption “would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.” The evaluation of an exemption also includes multiple opportunities for public notice and comment, allowing stakeholders to weigh in on the safety effects of a proposed exemption. Additionally, exemptions obtained through this process are limited and subject to renewal, which provides oversight to ensure that safety is not compromised. There is also a mechanism to revoke granted exemptions in scenarios if the exemption is not being properly followed or if the exemption results in a lower level of safety. The considerations included as part of the administrative process create guardrails to help ensure that the exemption is appropriate while also not compromising safety. This is the proper model.

Exemptions created through legislation, on the other hand, do not follow this same process, require the same safety considerations or include similar guardrails. Legislative exemptions are difficult to remove once established, which significantly limits the opportunity to revoke a legislative exemption, should it result in a lower level of safety. Legislative exemptions can be a strategy to get around this administrative process provided in statute by not needing to explicitly provide justification for an equivalent level of safety. Obtaining exemptions through legislation is not the appropriate avenue for securing an exemption from the safety regulations. Because a process exists for industry to pursue exemptions through an administrative process, ***CVSA opposes the inclusion of exemptions from federal safety regulations in legislation.***

In addition, ***CVSA opposes any effort to roll back the electronic logging device (ELD) mandate or exempt a portion of the motor carrier industry from the requirements.*** ELDs assist in the effective enforcement of hours-of-service (HOS) regulations. The HOS requirements exist to help prevent and manage driver fatigue. While sleep cannot be regulated, the HOS rules set forth a framework that, if followed, allow drivers to get the rest necessary to operate their vehicles safely. ELDs are a valuable tool to enforce the HOS regulations, making it easier for inspectors to identify violations and take unsafe, noncompliant carriers and drivers off the roadways, all while saving time for both enforcement and industry.

Efforts to roll back the ELD mandate or exempt portions of the motor carrier industry from the requirement would negatively impact safety and undermine the benefits that ELDs have on improving compliance with and enforcing the HOS requirements.

In general, exemptions are opportunities for inconsistency in enforcement, and CVSA maintains its opposition to legislative exemptions. However, when exemptions are included in legislation, ***CVSA supports including a delayed implementation date of 18-months between when legislative exemptions are passed and when they go into effect.*** Legislative exemptions are instantaneous and would allow those operating under the exemption to begin doing so as soon as the legislation becomes law. However, in many cases, interpretations and guidance from the federal agency on the parameters and definitions of the exemption are necessary.

Moreover, once the exemption has been analyzed and guidance provided, state enforcement personnel must be trained on the new exemptions. Inspectors have to be pulled off the road into the classroom to be trained on the changes. Practically speaking, this takes time. This guidance and the subsequent training is critical to ensuring the exemption is interpreted and enforced uniformly. Delaying the implementation date allows states time to receive any necessary guidance from the Department of Transportation, train inspectors on the changes and begin the process of adopting the new exemption into their own state law.

CVSA also supports requiring all drivers who wish to operate under an exemption from the FMCSRs to carry proof of eligibility under that exemption. The proof of exemption should be official documentation from FMCSA, either as a physical or digital copy, that demonstrates that the driver qualifies for the exemption. This requirement would ensure roadside inspectors have the necessary information to verify a driver's compliance with the safety requirements of the exemption. Currently, during the inspection process, an inspector must consider all possible exemptions that might apply to the driver and/or vehicle and a driver is not required to present any exemption information or indicate that they are operating under an exemption. By having the complete information, inspectors can conduct a more efficient inspection and correctly apply the regulations to the driver and/or vehicle being inspected.