

**FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
UNITED STATES DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.**

Re: Hours of Service of Drivers; Exemption)
Applications: Owner Operator Independent)
Drivers Association, Inc.,)
FMSCA-2017-0356-0002)
)

STATE ATTORNEY GENERAL COMMENT

The Attorney General of Arizona, Mark Brnovich, urges the Federal Motor Carrier Safety Administration to carve out an exception to the Electronic Logging Device (ELD) mandate broad enough to protect ordinary Americans who operate larger vehicles to transport livestock for sporting purposes. In particular, the Administration should ensure an adequate exception to protect citizens who use livestock haulers to compete in traditional sporting events and competitions, including horse shows, rodeos, and 4-H programs. Applying the ELD mandate to these citizens is costly, burdensome, and poses significant privacy concerns, all of which can be remediated by exempting these users from the mandate without compromising the efficacy of ELD regulations for commercial trucking as a whole.

At the outset, it is not clear that ordinary citizens who haul livestock for sporting purposes should be covered by commercial logging requirements at all. Citizens who use livestock haulers to compete in horse shows, rodeos, and 4-H programs, even when competing for prize money, are almost always shouldering expenses that will far outstrip their hope of economic gain; these are members of our community who are embracing our cultural roots and teaching the next generation, not seeking financial gain. It makes little sense to subject these citizens to the same expensive requirements as large commercial operators.

The financial and technological burdens that come with the new ELD mandate are particularly troubling in the context of hobbyists who haul livestock for sporting purposes. By the Administration's estimates, ELDs will cost drivers nearly \$500 per year in equipment costs and monthly fees.¹ This may be an insignificant amount in the budget of large commercial trucking companies, but it is potentially prohibitive for 4-H competitors (and others) who make sporadic long-distance trips to events. Mandatory ELD installation and use will also require hobbyists who haul livestock for sporting purposes, who are not professional truckers in any sense, to learn how to properly use the technology and stay up-to-date as the industry evolves, just so they can travel with their animals to sporting events in compliance with federal law. In these cases, until such time as the logging requirement itself is reconsidered, traditional paper logs should continue to be permitted by the Administration in place of ELDs pursuant to the exception that is currently under consideration.

Furthermore, the ELD mandate requires hobbyists, rodeo contestants, and others who take part in sporting events to subject their personal vehicles to ongoing government monitoring. Even in off-duty mode, ELDs collect location data on vehicles. Any vehicle monitoring of this nature naturally raises privacy concerns. But these concerns are particularly striking for hobbyists who only occasionally (or during certain seasons) use their personal vehicles to transport livestock to and from sporting events. Unlike trucking rigs dedicated to commercial purposes, the vehicles used under these circumstances often double as a primary vehicle for personal use; indeed, this will likely represent the bulk of the vehicles' use. With this in mind, it is particularly unreasonable to subject hobbyists who haul livestock for sporting purposes to ongoing data collection just because they occasionally travel long distances to sporting events.

¹ Electronic Logging Devices and Hours of Service Supporting Documents, 79 Fed. Reg. 60 (March 28, 2014). *Federal Register: The Daily Journal of the United States*. Web. 30 January 2018.

Granting an exception that narrows the scope of the ELD mandate to exclude those hobbyists who rely on their personal vehicles to haul livestock for occasional long-distance trips for sporting purposes is an important step toward lifting the unnecessary burdens our citizens bear because of overbroad trucking regulations. For these hobbyists who haul livestock for sporting purposes, ELDs would be costly and unnecessarily compromise privacy. Exempting these users from the ELD mandate would alleviate undue burdens without jeopardizing the Administration's ability to regulate commercial trucking operations. With this in mind, the Administration should take this opportunity to grant an exception to the ELD mandate in connection with the present exemption request and ensure that the granted exception would protect those citizens who use livestock haulers to compete in traditional sporting events and competitions, including horse shows, rodeos, and 4-H programs.

A handwritten signature in black ink, appearing to read "Mark Brnovich". The signature is fluid and cursive, with a long horizontal stroke at the end.

MARK BRNOVICH
Attorney General of Arizona