

## The Week of the ELD Pivot

It was just a matter of time, and apparently the time was the week of February 12. The debate has moved from whether the electronic logging device (ELD) mandate is affecting transportation to what we can do at the government level to alleviate those effects.

We might not have seen the peak of the ELD impact due to a delay in hard enforcement and temporary relief for agricultural commodity haulers, but the data show an obvious correlation between spot-market demand and the implementation. Yes, freight is unusually strong for Q1, but according to Truckstop.com data, the ratio of loads to available trucks since mid-December has been consistently higher than at any point in 2017 except for the spike related to hurricanes Harvey and Irma. With the Polar Vortex that straddled the end of 2017 and beginning of 2018, this ratio - the Market Demand Index (MDI) - soared above the hurricane levels to a record high.

To be clear, the MDI was above the five-year average throughout 2017, so capacity was tight to begin with. However, with no recent major weather-related disruptions the MDI still sits at about 40 to 1 - more than three times the five-year average.

### **A shift in the debate**

Until now, the industry has been divided, remaining officially at loggerheads over whether the ELD mandate should even continue. The Owner-Operator Independent Drivers Association and its allies have pressed every button to get relief from the ELD mandate itself; the American Trucking Associations, larger carriers and safety advocates have been steadfast on staying the course.

This fight technically isn't over; OOIDA has a [pending petition](#) with the Federal Motor Carrier Safety Administration (FMCSA) to exempt carriers with no at-fault crashes from the ELD mandate. However, with opposition from ATA and others, that effort has little hope for success even with the endorsement of 25 members of Congress.

OOIDA apparently sees the writing on the wall. On February 13, the [group filed a petition](#) with DOT and FMCSA to change the hours-of-service (HOS) rules to allow commercial drivers to pause their 14-hour daily clock for up to three consecutive hours and also to eliminate the current 30-minute rest break. While OOIDA officials surely will protest any suggestion that this new approach means they are giving up the fight over ELDs, clearly, they are shifting gears.

Why does this matter? The OOIDA petition comes as larger carriers are saying similar things. At an annual meeting of truck stop operators on February 12, a Maverick Transportation official [suggested that some relief from the 14-hour rule would be desirable](#), though he did not discuss any measures as significant as those proposed by OOIDA.

In the same session, Dave Manning - president of intermodal carrier TCW Inc. and, importantly, ATA's current chairman - agreed that flexibility is needed, though he apparently didn't address the 14-hour rule specifically. As reported by *Fleet Owner*, Manning said drivers need more flexibility, "especially the flexibility to rest when they need to rest."

Manning is referring to an effort already underway in preliminary stages to consider changing the HOS rules to allow drivers to split their mandatory 10-hour rest the way they could for nearly 70 years before a rule change in the mid-2000s. FMCSA anticipates [launching a one-year pilot study this summer](#).

ATA is [on record seeking split rest flexibility](#), but it does not appear to have a position on the 14-hour rule. The association is unlikely to endorse OOIDA's proposal, but at least the entire trucking industry believes HOS reform is needed. With a political regime in Washington receptive to regulatory reform, a broad industry consensus could lead to some compromise.

### **One-and-a-half-ish out of three ain't bad, right?**

The ELD mandate potentially affects productivity and capacity in three basic ways:

- **Transit times** - Some trips that drivers could get away with completing in one shift now will require two shifts (or a second driver).
- **Dock delays** - Without the strict compliance afforded by ELDs, drivers often could absorb some of the productivity impact of excessive detention and inefficient scheduling by shippers and receivers.
- **Labor drain** - Clearly, some number of drivers have left and will leave the industry over ELDs. We don't know the number yet, but it probably will have a significant impact on capacity, especially in the hot freight environment we see today.

None of the HOS reform proposals on the table directly affect the transit time issue, but that might be the least significant problem of the three for the supply chain as a whole. OOIDA's proposal directly addresses dock delays, which likely has a much broader impact on productivity. Moreover, in some sectors like refrigerated freight, detention and scheduling can create especially severe productivity problems.

By addressing the dock delay issue, the OOIDA proposal likely would reduce - though certainly not eliminate - the number of drivers exiting the market. Even on an expedited basis, no regulatory relief is realistic before 2019, so few drivers would wait around for it. On the other hand, with freight rates strong and wages following, many drivers might stick around for a while anyway.