

HOURS OF SERVICE

Federal Regulation Has Been Revised Often Since First Written During Great Depression

By Michele Fuetsch
Staff Reporter

It was 1936, the Great Depression still gripped the United States, Franklin D. Roosevelt was seeking a second term as president and American Trucking Associations held its third annual convention in Chicago.

That same year, the Interstate Commerce Commission began debate on an issue as central to trucking today as it was when the first farmer bought a truck to haul produce to market — how many hours a driver should be allowed on the road.

The ICC's first suggestion — 15 hours — was met with such fierce opposition from drivers and labor advocates that the commission opted for a 12-hour rule and began enforcing it in 1938.

That rule, however, survived only a year before the ICC in 1939 reduced to 10 the number of allowable driver hours.

and in the offices of government regulators.

Between 1939 and 1962, the ICC was pressed for various exemptions to the hours-of-service rule by a host of business sectors, from farming to oil producers. Occasionally, the commission would grant an exemption to the 10-hour rule, as it did in 1940 for truckers delivering catalogs around Christmas.

The first significant changes to the 1939 rule did not occur for nearly 25 years.

In 1939, the ICC had not specified total on-duty hours for drivers, but the rule did set a time cycle of 24 hours, during which drivers had to have eight consecutive hours off duty to rest.

In 1963, when the commission finished revisiting the rule, the 10-hour drive time and the eight-hour rest period were still intact. But a new on-duty time of 15 hours was added, and the 24-hour cycle was reduced to 18, meaning drivers could start a new 10-hour driving shift within a shorter period.

The next change was actually a bureau-

Drivers Council for Safety and Health, backed by consumer advocate Ralph Nader.

The court ordered the bureau, housed in DOT's Federal Highway Administration, to update the HOS rule, a task the bureau spent the next five years trying to accomplish.

In May 1978, the bureau and the FHWA laid out a series of alternatives with which to update the existing rule, one of which was to reduce to 12 from 15 the maximum hours a driver could be on duty.

Another alternative was to set driver mileage limits in connection with hours limits. The bureau came up with two choices: Set the allowable time behind the wheel to 10 hours or 450 miles, whichever came first, or to 11 hours or 500 miles.

A third alternative would have banned driving between midnight and 6 a.m.

In the end, the bureau decided there was no justification for changing the existing 10-hour rule, and the alternatives were shelved.

In 1981, Ken Pierson, then the bureau's director, said of the decision to abandon the proposed changes: "There simply was no evidence to establish a direct relationship between hours of service and significant reduction in accidents."

During the decade, the Insurance Institute for Highway Safety pressed the bureau to require interstate carriers to have devices on trucks that would monitor drivers' compliance with the hours rule. But the bureau rejected the idea, saying the insurance group had not presented evidence that the onboard recorders would reduce accidents.

Then in 1990, the National Transportation Safety Board joined the fray over driver hours, calling for reductions, something it was to do again in 1995.

In February 1990, the safety board had published a study of driver fatalities in truck-involved crashes that said a third of the incidents involved fatigue of the truck driver.

In 1992, the administration of President George H.W. Bush tried and failed against labor opposition to change the HOS rule. Trucking backed the proposed change, which would have allowed drivers to restart their time clocks after a 24-hour break.

It was a growing concern about a potential link between safety and fatigue that pushed Congress into the hours of service controversy, said former Rep. James Oberstar (D-Minn.).

The Clinton administration wanted to do something to increase safety in trucking, Oberstar recalled in a recent interview with

TRANSPORT TOPICS. So, in the 1995 bill that dismantled the ICC, the Motor Carrier Safety Bureau was replaced with the Federal Motor Carrier Safety Administration and was directed to address the HOS rule.

"I said, if we're going to make changes, and this is our only opportunity to do this, let's take a leaf out of the aviation book," Oberstar recalled.

In 1958, Congress created the Federal Aviation Administration and set into law the mandate that safety "shall be maintained at the highest possible level," Oberstar said. He made safety a central part of the FMCSA's mandate and put the word "safety" into its title, though some critics wanted the word taken out, he said.

Julie Cirillo was appointed the acting director of the new FMCSA and set the government on a course to explore the link between driver fatigue and crashes.

In April 2000, Cirillo and then-Transportation Secretary Rodney Slater issued a proposed rule that limited a driver's on-duty time to 12 hours with no distinction between on-duty and driving time.

The proposal also called for trucks to have onboard recorders that would monitor drive time, and the plan distinguished between



The first trucking companies mainly hauled agricultural products, years before the federal government issued the first hours-of-service rules in the late 1930s.

Congress killed the ICC in 1995, but the 10-hour limit outlived it, surviving 64 years before it was changed to 11 hours in 2003, sparking the legal battle that continues today.

For much of the time since 1936, the tug of war between trucking's desire for productivity and labor's demand for shorter hours has played out mostly in the halls of Congress

and in the offices of government regulators.

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Hours of Service Historical Time Line

- July 8, 1936: Interstate Commerce Commission starts work on the first federal hours-of-service regulation.
- March 1, 1939: ICC reduces allowable driving hours to 10 from 12 — and drops the 15-hour work shift.
- July 1, 1938: ICC begins enforcing a 12-hour driving limit within a 15-hour total work shift.
- April 13, 1962: ICC drops a requirement that a driver start a shift no sooner than 24 hours after the last shift began. This allows a driver to begin a new work shift 18 hours after starting the previous one.
- Feb. 21, 1963: ICC sets total on-duty time for truckers at 15 hours, but they can still drive only 10.
- Feb. 12, 1976: Responding to a court order to change HOS rules, the Department of Transportation, which now oversees trucking, solicits public comment.
- May 22, 1978: DOT presents three options for a revised rule but by 1981 abandons its proposals.
- Aug. 19, 1992: DOT proposes that drivers be allowed a restart after a 24-hour break.
- Feb. 3, 1993: DOT drops the restart proposal.
- Dec. 29, 1995: Congress creates the Federal Motor Carrier Safety Administration with instructions to revise the hours rule.
- May 2, 2000: FMCSA proposes a 12-hour shift with no distinction between driving time and on-duty time. Congress blocks implementation of the proposal.
- Nov. 5, 1999: DOT solicits comments on revising the regulation.