

TRANSLAW ALERT



THE TRANSLAW GROUP, INC.
FOR IMMEDIATE RELEASE



DATE: AUGUST 13, 2013

CONTACT:
JAMES M. BURNS
JBURNS@TRANSREGS.COM
TEL 413-781-8205
FAX 413-734-7839

COURT UPHOLDS ALL BUT ONE PROVISION OF NEW HOURS OF SERVICE REGULATIONS

The never-ending warfare over the hours of service may very well be coming to a close as the U.S. Court of Appeals for the District of Columbia Circuit upheld all but one provision of the regulations in an opinion filed Friday, Aug. 2.

The decision responds to a pair of challenges brought against the regulation. The first challenge was filed by the American Trucking Associations and the second was filed by the Advocates for Highway and Auto Safety, Public Citizen, and the Truck Safety Coalition.

The 22-page decision written by Judge Janice Rogers Brown concludes with Judge Brown being very clear that the court upholds the lion's share of the current hours-of-service regulation.

"It is often said the third time's a charm. That may well be true in this case, the third of its kind to be considered by the circuit. With one small exception, our decision today brings to an end much of the permanent warfare surrounding the HOS rules," Judge Brown wrote.

However, she did not credit the rulemaking processes followed by the Federal Motor Carrier Safety Administration. "Though FMCSA won the day not on the strengths of its rulemaking prowess, but through an artless war of attrition, the controversies of this round are ended."

The decision vacates one small provision within the regulations.

Short-haul drivers will not be subject to the 30-minute off-duty break requirement.

"In all other respects, the petitions of both the ATA and Public Citizen are denied," Judge Brown wrote in the decision.

WHAT DOES ALL OF THIS MEAN: The current hours-of-service regulations, which went into effect July 1, essentially stay as is thanks to the court's ruling – minus the exemption for short-haul drivers.

TRANSLAW ALERT



THE TRANSLAW GROUP, INC.
FOR IMMEDIATE RELEASE



DATE: AUGUST 13, 2013

CONTACT:
JAMES M. BURNS
JBURNS@TRANSREGS.COM
TEL 413-781-8205
FAX 413-734-7839

FMCSA will have to publish the exemption in the *Federal Register* defining specifically what "short-haul" operations are and who the exemption will apply to. Until that happens, the exemption is basically just "ordered" by the court and not the rule of the road, yet.

For the rest of the industry (except for livestock haulers and Department of Defense loads that are also exempt) rest breaks are mandated for drivers during the workday if the driver has been on duty for eight consecutive hours. The regulation also mandates that the 34-hour restart provision must include two overnight periods of 1 a.m. to 5 a.m. in the restart. The restart is also restricted in the new regulations to only once per seven days.