

**ISSUE NUMBER**

25-062-DRV

**ISSUE NAME**

OOSC, Part I, Item 9. Driver's Record of Duty Status - U.S. - ELD Tampering

**STATUS**

Closed

Driver-Traffic Enforcement Committee

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This issue request is a follow-up to issue 24-046-DRV (false record of duty status where the ELD file has been manipulated) which was discussed at the CVSA workshop in New Orleans. The Driver and Traffic Enforcement (DTE) Committee agreed that this violation should result in the driver being placed out of service for ten hours. I would like to request that the DTE Committee look again at this issue, and consider increasing the out of service period from ten hours to 34. The justification for this is outlined below.

**JUSTIFICATION OR NEED**

Electronic records of duty status that have been manipulated on the back end (either by the carrier or a third party) are extremely difficult to reconstruct on a roadside inspection. These files often completely fabricated so that it can be impossible to determine if the driver is in violation of the 11, 14 and 60/70 hour rules at the time of inspection. I have undertaken multiple roadside inspections where the ELD file is completely fabricated, to the extent that I am unable to calculate 60/70 hour rule violations because phantom 34 hour resets have been deliberately built into the eight day log.

Given the fact that the OOSC is in place to deal with imminent hazards, I believe that consideration should be given to addressing the violation of the 60/70 hour rule in cases where the ELD file has been manipulated. A ten hour out of service may obtain compliance if the driver is in violation of the 11 or 14 hour rule. However, it will not help deal with egregious violations of the 60/70 hour rule. Fatigue can be a significant factor in CMV crashes, and some drivers are working for extended periods of time and therefore violating hours of service regulations. There are being deliberately hidden by the carrier, which allows the driver to continue to drive while fatigued.

On 7/16/2025 I conducted a roadside inspection where the ELD file had been heavily manipulated to: disguise hours of service violations, give the driver a fabricated 34 hour reset (which I was able to prove false using shipping papers and talking to the shipper), and show made-up locations that were completely different from where the driver and CMV actually were. While I was able to prove that the driver was in violation of the 11 and 14 hour rules at the time of inspection, I was not able to calculate accurately the driver's compliance with the 70 hour rule because the ELD file had been so heavily manipulated. I am happy to brief the committee on this example at the CVSA conference in September.

## REQUEST FOR ACTION

I would request that the DTE Committee update the proposed change to the OOSC to include the following:

### (X) False Record of Duty Status – ELD Tampering

A required RODS recorded on an ELD does not accurately reflect the driver's duty status due to disabling, reengineered, reprogramed, or tampered with data, and it is not possible for the inspector to determine if the driver is in compliance with the 60/70 hour rules. (395.8(e)(2)) Declare driver out of service for 34 consecutive hours.

A footnote could be added to this violation to state that, if the driver has been subject to inspection in the previous 8 days, and placed out of service for 34 hours for a manipulated ELD violation, then the 34 hour reset would not be applicable for the current inspection, and the driver could only be placed out of service for ten hours if the ELD file has been manipulated subsequent to the previous inspection.

## ACTION TAKEN BY COMMITTEE

A PowerPoint presentation regarding the issue was reviewed. It was stated that ELD falsification is a widespread issue and that the FMCSA needs to address it. An industry person stated that she agrees that something needs to be done about drivers who are falsifying an ELD to this extent. It was asked if there was anything roadside enforcement could do to get an egregiously manipulated ELD shut down immediately.

No, the inspector must report the device. Concern was expressed that an altered log to this extent needs to be placed out of service for 34 hours. Others voiced concern as to how an inspector will be able to articulate and justify a 34-hour restart. FMCSA is aware of the egregiously false ELDs. The chairman explained that we need to consider that the FMCSA has determined 10 hours as a qualifying rest break. No ELD and No Previous Seven Days is currently a 10-hour out-of-service violation. It was also noted that the new out-of-service condition for altered ELDs has not yet gone into effect (04/01/2026).

Others expressed that the reality of a driver staying out of service for 34 hours is unlikely if they are already falsifying the ELD. Industry explained that there needs to be actual enforcement for drivers who continually falsify ELDs.

It was recommended handling these extreme false ELD as a "No RODS" violation and placing the driver out of service for 10 hours. Further explanation outlining valid rest periods was given with the legal opinion that adding a 34-hour out-of-service violation in this instance appears to be more punitive than removing an imminent hazard. Fatigue studies and prior rest period studies can articulate a 10-hour out-of-service violation. Inspectors can take punitive action by issuing citations and/or making arrests.

There were questions for the justification for placing a driver out of service for 34 hours. Others explained that, based on his experience, an altered ELD over a six-day window often has a high probability of being significantly over the 60/70 regulation. However, further discussion was that the need for a 34-hour out-of-service condition appears to be loosely justified. Concern was expressed that if an inspector mistakenly places a driver out of service for 34 hours, it will have a significant negative impact on the driver and the carrier. There was no motion made and the issue was closed.