

What is the FMCSA's definition of Harassment?

Question:

What is the FMCSA's definition of Harassment and how is it prevented?

Answer:

FMCSA defines harassment as an action by a motor carrier toward one of its drivers that the motor carrier knew, or should have known, would result in the driver violating hours-of-service (HOS) rules. These rules prohibit carriers from requiring drivers to drive when their ability or alertness is impaired due to fatigue, illness, or other causes that compromise safety. Technical provisions that address harassment include a mute function to ensure that a driver is not interrupted in the sleeper berth.

FMCSA explicitly prohibits a motor carrier from harassing a driver, and provides that a driver may file a written complaint if the driver was subject to harassment.

A motor carrier can only be found to have committed harassment if the driver commits a specified underlying hours-of-service (HOS) violation based on the carrier's actions and there is a connection to the electronic logging device (ELD). Adverse action against the driver is not required, because the driver complied with the carrier's instructions.

Coercion: In contrast, coercion is much broader in terms of entities covered, and addresses the threat to withhold work from or take adverse employment action against a driver in order to induce the driver to violate a broader range of regulatory provisions or to take adverse action to punish a driver for the driver's refusal to operate a commercial motor vehicle (CMV) in violation of the specified regulations. Unlike harassment, coercion does not have to result in the driver being in violation of the regulations and does not have to involve the use of an ELD.