

# The Importance of Timing in Truck Accident Claims

## Take immediate action to protect your legal rights

It's every driver's nightmare: a collision with a tractor-trailer or other large commercial truck. Because of the sheer size of those vehicles, truck accidents can cause devastating injuries. If you were involved in a truck wreck, it's natural to be reeling from the shock of impact – but you have to act quickly, nevertheless.

The trucking companies know this. That's why they have investigators on the scene right away, often within 24 hours, to protect *their* rights and interests after a serious [truck accident](#). Here's why you need to talk to a truck accident attorney at [Smith & Hassler, Attorneys at Law](#) right away.

## Critical evidence can disappear or be destroyed as time passes

To get full compensation for your injuries sustained in a truck accident, you need evidence to prove that the trucking company or another negligent party was at fault. In a trucking case, much of the evidence in question is the trucking company's property. An attorney needs to intervene to preserve that evidence before it is lost, destroyed or overwritten.

## The Hours of Service (HOS) log

Federal hours of service (HOS) regulations establish how frequently truckers must take breaks and how many hours they are allowed to work in a given time. Truckers carrying cargo may drive a maximum of 11 hours after 10 consecutive hours off duty and cannot drive beyond the 14<sup>th</sup> consecutive hour of coming on duty. They also must take a 30-minute break after 8 cumulative hours of driving, and they cannot drive more than 60 hours in a 7-day period or more than 70 hours in an 8-day period. These rules are intended to make sure truck drivers are alert and don't fall asleep at the wheel.

The Hours of Service log – either a physical log book, or an electronic logging device (ELD) – records those mandatory breaks and documents the driver's compliance with those regulations. Reviewing the log book may reveal that the driver negligently skipped mandatory rest breaks, which can bolster a case that the driver was inattentive or asleep at the wheel. The HOS log can also be cross-referenced with other evidence to find discrepancies and help your attorney get to the bottom of what happened.

Again, the log belongs to the trucking company, and under federal law, the company is only required to keep it for **six months**. An attorney needs to intervene within that six-month window to preserve this critical evidence. Depending on the scope of your attorney's investigation, logs from days or weeks before the accident may be relevant, so it's sometimes necessary to intervene even sooner to make sure all relevant evidence is preserved.

## The “black box” data

The event data recorder (EDR), commonly known as the black box, stores a wide variety of data about the operation of the truck, including the truck's speed, use of accelerator, use of steering wheel, warning signals, application of brakes, and other information that can shed light on the trucker's actions during the wreck. For instance, the EDR may reveal that the trucker didn't apply the brakes before impact – which could be evidence of fatigued or distracted driving – or that the truck was in motion while the driver claimed to be taking a rest break.

Depending on the type of EDR, data for a non-deployment event (that is, any event where the air bags are not deployed) may be wiped out in 250 ignition cycles, which can happen as soon as **three to four weeks** after the accident.

### **Inspection, repair, and maintenance records**

Truck accidents aren't just about the driver; they're about the truck itself. A truck that is not properly maintained, inspected, and repaired is a threat to everyone else on the road, and those maintenance records can be critical to establishing liability in a case. For example, if you were rear-ended by a truck, it's important to know whether the trucking company was aware of any issues with the brakes that could have resulted in a rear-end collision.

In general, these records must be kept for **one year**. Since the relevant maintenance (or lack of maintenance) may have been months before the accident, you may have a fairly short window to preserve records that could affect your case.

### **Traffic video or surveillance camera footage**

When truck accidents are caught on camera, the video footage can play an important role in your injury claim. It's no longer your word against the truck driver's; there is objective evidence of what happened and how. However, camera footage is often erased or recorded over very quickly, sometimes **within days** of the accident, unless you or your attorney asks for it to be preserved.

### **Other important evidence**

Physical evidence, such as skid marks, can be critical in truck accident claims. There's no legal expiration date on this type of evidence, but it can quickly be washed away by weather.

Witness testimony, too, is vital, both from people who saw the wreck itself and those who may have seen or interacted with the trucker prior to the accident. Again, while there is no legal deadline on witness testimony, it's easier to track witnesses down and easier for them to remember what they saw soon after the crash.

### **Remember, there is also a legal deadline to file a claim**

The statute of limitations is a legal deadline to file a lawsuit in civil court. In Texas, the statute of limitations for most injury claims is **two years** from the date of the injury. If you lost a loved

one in a fatal truck accident, the deadline to file a wrongful death lawsuit is likewise **two years** from the date of death. However, different deadlines can apply under certain circumstances.

The key is to talk to an experienced truck accident attorney about your case as soon as possible. Recovering all those documents takes time, especially when the trucking companies and their insurance companies go out of their way to make it as hard as possible. The deck starts off stacked in their favor. The sooner you get a lawyer on your side, the more easily we can level the playing field.

If you were hurt in a truck accident, we'd welcome you to meet with us for a free consultation. There's no cost and no obligation to hire us, just answers about your legal rights and options. [Contact us](#) today to schedule your consultation with an experienced Houston truck accident lawyer.