



DUMP TRUCK CARRIERS CONFERENCE

NEWSLETTER

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HUMOROUS QUOTES

"A successful man is one who makes more money than his wife can spend. A successful woman is one who can find such a man" - Lana Turner

"Go to Heaven for the climate, Hell for the company" - Mark Twain

"I feel sorry for people who don't drink. When they wake up in the morning, that's as good as they're going to feel all day" - Frank Sinatra

"A word to the wise ain't necessary - it's the stupid ones that need the advice" - Bill Cosby

"When you are courting a nice girl an hour seems like a second. When you sit on a red-hot cinder a second seems like an hour. That's relativity" - Albert Einstein

"Behind every great man is a woman rolling her eyes" - Jim Carrey

"Get your facts first, then you can distort them as you please" - Mark Twain

"Between two evils, I always pick the one I never tried before" - Mae West

"As a child my family's menu consisted of two choices; take it or leave it" - Buddy Hackett

"I always wanted to be somebody, but now I realize I should have been more specific" - Lily Tomlin

DID YOU KNOW?

(DOT/PUCO Rule Guidance)

Q: Do the new (July 1, 2013) DOT Hours-Of-Service Rules changes, or the 2012 DOT Cell Phone Rules, currently apply on Intrastate Ohio movements?

A: Not currently. Thirty-eight states automatically adopt DOT rules as soon as they are effective. **Ohio does not.** Not until the PUCO formally adopts these new changes are they effective in Ohio. The last time the PUCO went through the process of adoption of Federal Regulations was in March 2011, so it is not a scheduled periodic procedure, and it may be some time before these new rules are enforced on Non-Hazmat Intrastate Ohio movements.

QUOTABLE (True Story)

Flight attendant on "Kulula 255" just after an extremely hard landing in Cape Town, South Africa: "Ladies and gentlemen, welcome to the mother city. Please remain in your seat with seat belts fastened while the captain taxis what's left of our airplane to the gate."

GENERAL INFORMATION

DOT REMOVES OUT-OF-STATE CONVICTION REPORTING

Effective May 28, 2013, drivers holding a CDL no longer have to report their out-of-state traffic convictions to the state that issued their license, under a new rule from the Federal Motor Carrier Safety Administration (FMCSA).

The agency has effectively eliminated this provision in 49 CFR Sec. 383.31.

They must still report convictions to their employer.

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BOARD SAYS LOWER THE DRUNK- DRIVING THRESHOLD

The National Transportation Safety Board (NTSB) says states need to tighten their drunk-driving laws, starting with a blood-alcohol limit of 0.05 percent.

The call to action is one of 19 new

recommendations it wants to "put the country on a course to eliminate alcohol-impaired driving crashes."

The recommendations call for stronger laws, swifter enforcement, and expanded use of technology.

There is new research showing that by 0.05 percent blood-alcohol content (BAC), most drivers experience enough decline in both cognitive and visual functions to significantly increase the risk of a serious crash.

States currently use 0.08 percent as their benchmark for determining if a driver is legally drunk. Commercial drivers are held to a higher standard of 0.04 percent.

Over 100 counties on six continents have BAC limits set at 0.05 or lower, the NTSB says. The agency has asked all 50 states to do the same.

BROKER BONDS TO INCREASE OCTOBER 1ST

Beginning October 1st, brokers will need to file a \$75,000 surety bond or trust fund agreement, more than seven times the amount currently required under financial security rules.

The increase is due to the 2012 highway reauthorization bill known as the *Moving Ahead for Progress in the 21st Century Act* (MAP-21) that became law last October. The law provides for an increase in the bond amount required for companies with general freight broker registration from \$10,000 to \$75,000. The bond amount for brokers of household goods will also go up to \$75,000, a three-fold increase.

More information can be found on the Federal Motor Carrier Safety Administration's website at <http://1.usa.gov/YOZ3v4>.

GENERAL INFORMATION

"FAKE POT" AND "BATH SALTS" PROHIBITED

Four drugs now sold as "fake pot" and "bath salts" have been added to the list of substances that cannot legally be prescribed and which commercial drivers are prohibited from taking.

The U.S. Drug Enforcement Administration (DEA) has placed the following substances onto the drug list known as Schedule I:

- 3, 4-methylenedioxy-N-methylcathinone (methylone);
- (1-pentyl-1H-indol-3-yl) (2,2,3,3-tetramethylcyclopropyl) methanone (UR-144);
- (1-(5-fluoro-pentyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl) methanone (5-fluoro-UR-144, XLR11), and
- N-(1-damantyl)-1-pentyl-1H-indazole-3-carboxamide (APINACA, AKB48).

The first drug is a synthetic stimulant sometimes marketed as a bath salt or plant food, while the remaining three are synthetic cannabinoids often marketed as "legal" alternatives to marijuana.

Under 49 CFR Secs. 382.213 and 392.4, drivers are prohibited from taking or possessing Schedule I substances when operating commercial motor vehicles. Schedule I is the DEA's most restrictive category, reserved for unsafe, highly abused substances with no accepted medical use and which cannot be prescribed legally.

HANDS-FREE TEXTING ISN'T SAFER

New research from the Texas A & M Transportation Institute (TTI) suggests that voice-to-text applications offer no real safety

advantage over manual texting.

The study involved 43 participants driving an actual vehicle on a closed course and is the first to compare voice-to-text and manual texting on a handheld device in an actual driving environment.

Drivers first navigated the course without any use of cell phones, then traveled the course three more times performing a series of texting exercises - once using each of two voice-to-text applications, and once texting manually. Researchers measured the time it took each driver to complete the tasks and to respond to a light which came on at random intervals during the exercises:

Among the findings:

- Driver response times were significantly delayed no matter which texting method was used. In each case, drivers took about twice as long to react as they did when they weren't texting, making them less able to respond to roadway hazards.
- The amount of time that drivers spent looking at the roadway ahead was significantly less when they were testing, no matter which texting method was used.
- For most tasks, manual texting required slightly less time than the voice-to-text method, but driver performance was roughly the same with both.
- Drivers felt less safe when they were texting, but felt safer when using a voice-to-text application than when texting manually, even though driving performance suffered equally with both methods.

Additional information can be found online at tti.tamu.edu.

GENERAL INFORMATION

THE PROPOSED MEDICAL CERTIFICATION PROCESS

If the proposed rule from the FMCSA is finalized, this is how the examination and reporting process would work:

Step 1: The driver undergoes a DOT medical exam from an examiner listed on the National Registry. If the driver does not hold a CDL or CLP, the examiner issues a paper medical card to the driver as required today.

Step 2: The medical examiner transmits the results of the exam to the FMCSA by the end of the day, via a secure National Registry internet account. If the driver was found to be not qualified, all previous medical cards issued to the driver would be deemed invalid.

Step 3: The FMCSA could review the exam results and invalidate the driver's medical card if certain problems are discovered (this can happen at any time). If that were to happen, the agency would notify the driver and - for CDL/CLP drivers - the state licensing agency. Drivers would have the opportunity to appeal the decision.

Step 4: For CDL and CLP holders, the FMCSA electronically transmits the information on the medical certificate to the state licensing agency on the next business day. Medical variance information is also sent to the state, for both CDL and non-CDL drivers.

Step 5: The state licensing agency enters the data into the CDL/CLP holder's driving record. If the driver is not medically certified, the state begins the process of downgrading the driver's license.

Step 6: The motor carrier that employs the driver obtains a new driving record from the

licensing state, verifies that the driver is medically qualified, and places the record in the driver's file.

DRUG AND ALCOHOL CLEARINGHOUSE CLOSER TO REALITY

The Federal Motor Carrier Safety Administration (FMCSA) recently sent a proposed version of its "Drug and Alcohol Clearinghouse" rule to the White House for review. Such reviews typically take two to three months and are the last stop before a rule is published and made available for public input.

The FMCSA is expected to publish the proposal by early July and give the public 60 days to review it before drafting the final version later this year.

The rule would create a database or "clearinghouse" of drivers who hold commercial driver's licenses (CDLs) and who tested positive on - or refused to take - a DOT-mandated drug or alcohol test.

Motor carriers and their service agents would have to report such positive tests or refusals into the database, and prospective employers would have to check the data base before hiring a driver to make sure his/her name is not on the list.

Drivers appearing in the data base would have to undergo treatment and complete the DOT's return-to-duty process before driving commercial vehicles in interstate or intrastate commerce.

Last year's *Moving Ahead for Progress in the 21st Century Act*, known as MAP-21, requires creation of the clearinghouse by October 1, 2014.

GENERAL INFORMATION

TRUCKING SAFETY BY THE NUMBERS

The following figures from the National highway Traffic Safety Administration refer to crashes involving large trucks (over 10,000 pounds) in calendar year 2011:

- **287,000** - Large trucks involved in crashes in the U.S.
- **3,757** - People killed in those crashes.
- **635** - Deaths among truck occupants.
- **2%** - Increase in deaths from 2010 to 2011.
- **3%** - Increase in large-truck occupants killed from 2010 to 2011.
- **17%** - Portion of fatalities who were occupants of large trucks.
- **88,000** - People injured in large-truck crashes.
- **23,000** - Injured truck occupants.
- **10%** - Increase in injuries from 2010 to 2011.
- **26%** - Portion of injured who were occupants of large trucks.
- **72%** - Portion of injured who were occupants of other vehicles.
- **72%** - Portion of fatalities who were occupants of other vehicles.
- **1%** - Portion of large-truck drivers involved in fatal crashes with a blood alcohol concentration (BAC) of .08 or higher.
- **24%** - Portion of car drivers involved in fatal crashes with a BAC of .08 or higher.

DTCC FILES AMICUS BRIEF AGAINST MUNICIPALITY TAXING OF NON-RESIDENT TRUCKERS

An Amicus Brief was filed by attorney Michael Briley of Shumaker, Loop & Kendrick LLP, Toledo, Ohio, on behalf of the DUMP TRUCK CARRIERS CONFERENCE in support of Panther II Transportation's ongoing litigation to stop the Village of Seville, Ohio from continuing to impose a "net profits tax" for operating in their municipality. A brief with similar objectives was filed by attorneys John L. Alden and Tony Palmer of Alden Law, Columbus, Ohio, on behalf of the Ohio Trucking Association.

It is believed by Panther, and those supporting Panther, that the Ohio General Assembly's decision many years ago to regulate trucking companies on a statewide basis, specifically in R.C. 4921.25, eliminates regulation at a local government level and that motor carriers are not subject to local municipal taxes, including "net profits taxes." This is an important issue. Conjure the idea of all approximately 600 Ohio municipalities applying local taxes to motor carriers who, in the course of transportation related operations, move in and out of their jurisdiction.

FMCSA ISSUES NEW BREAK GUIDANCE

The agency has said that in order to be compliant with the 8-hour break rule:

1. "The driver is relieved of all duty and responsibility for the care and custody of the vehicle, its accessories, and any cargo or passengers it may be carrying."
2. During the stop, and for the duration of the stop, the driver must be at liberty to pursue activities of his/her own choosing.

There is an exception for hazardous materials requiring mandatory "in attendance" time if no other duties are performed.

GENERAL INFORMATION

TOP 30 ENFORCEMENT CASES OF 2012

As a matter of interest, the following are the most costly motor carrier enforcement cases of 2012, based on settlements paid to the FMCSA as of December 14, 2012 (the latest data available). The table includes the location where the motor carrier is based, the violations that were cited in the case, and the amount the carrier paid to settle the case:

Location	Violation(s)	Settlement
Glendale, AZ	396.11(a): Post-trip inspection reports 395.8(e): False logs	\$148,850
Sapulpa, OK	395.8(e): False logs	\$113,050
Wayne, MI	395.8(e): False logs 395.3(a)(2): 14-hour rule	\$96,250
Jacksonville, FL	396.17(a): Annual vehicle inspections 382.303(a)-(b): Post-accident drug/alcohol testing 382.305(b)(1): Random alcohol testing 383.37(a): Driving with suspended/revoked CDL 395.8(e): False logs 395.8(k)(1): Log retention 396.3(b): Vehicle inspection/maintenance records	\$91,820
St. Louis, MO	395.8(e): False logs 382.305(b)(1): Random alcohol testing 382.305(b)(2): Random drug testing	\$88,260
Blenker, WI	395.8(e): False logs	\$83,840
East Point, GA	396.11(a): Post-trip inspection reports 382.301(a): Pre-employment drug testing 382.305: Random drug/alcohol testing 383.37(a): Driving with suspended/revoked CDL 391.51(b)(2): No driving record on file 391.51(b)(7): No medical examiner's certificate 395.8(k)(1): Log retention 396.3(b): Vehicle inspection/maintenance records	\$82,910
Omaha, NE	395.8(e): False logs	\$82,450
Killdeer, ND	395.8(a): No logs 172.800(b): Hazmat security plan 382.303(a)-(b): Post-accident drug/alcohol testing 395.3(b)(2): 60-hour/7-day rule	\$82,340
Commerce City, CO	395.8(e): False logs	\$80,000
Scottsbluff, NE	395.8(e): False logs	\$79,050
Denver, CO	395.8(e): False logs	\$70,500
Euless, TX	386.84(a)(1): Operating with suspended registration	\$68,780

GENERAL INFORMATION

TOP 30 ENFORCEMENT CASES OF 2012

(Continued)

Location	Violation(s)	Settlement
Columbia, MS	395.8(i): Failure to submit logs within 13 days 395.8(e): False logs	\$67,130
Omaha, NE	395.8(e): False logs	\$64,600
Waterloo, IA	395.11(c): Failing to correct reported defects 395.8(e): False logs	\$64,000
Chicago, IL	395.8(e): False logs 391.11(a): Post-trip inspection reports 391.45(b)(1): Expired medical certificate	\$63,810
Ft. Wayne, IN	396.3(b): Vehicle inspection/maintenance records 382.305(b)(1): Random alcohol testing 382.305(b)(2): Random drug testing 395.8(e): False logs	\$62,856
Union, MO	395.8(e): False logs	\$60,000
Waverly, NE	395.8(e): False logs 382.301(a): Pre-employment drug testing 382.305: Random drug/alcohol testing 383.37(a): Driving with suspended/revoked CDL 391.51(b)(2): No driving record on file 391.51(b)(7): No medical examiner's certificate 395.8(k)(1): Log retention 396.3(b): Vehicle inspection/maintenance records	\$59,630
Wilson, NC	395.8(e): False logs 382.305(b)(1): Random alcohol testing	\$58,800
Des Moines, IA	396.17(a): Annual vehicle inspections 391.11(a): Using an unqualified driver 382.301(a): Pre-employment drug testing 382.305(b)(2): Random drug testing 391.45(b)(1): Expired medical certificate 391.51(b)(2): No driving record on file 395.3(a)(2): 14-hour rule 395.3(b)(2): 60-hour/7-day rule 395.8(e): False logs 395.8(k)(1): Log retention	\$57,060
Kansas City, KS	395.8(e): False logs	\$57,024
North Bergen, NJ	391.51(a): No driver qualification files 382.301(a): Pre-employment drug testing	\$55,950

GENERAL INFORMATION

TOP 30 ENFORCEMENT CASES OF 2012 (Continued)

Location	Violation(s)	Settlement
Knoxville, TN	396.17(a): Annual vehicle inspections 391.11(a): Using an unqualified driver 382.301(a): Pre-employment drug testing 382.305(b)(2): Random drug testing 383.23(a): Driving without a CDL 383.37(a): Driving with suspended/revoked CDL 386.83(a)(1): Operating after failing to pay civil penalties 391.11(b)(4): Driver not medically qualified 391.51(a): No driver qualification files 396.3(b): Vehicle inspection/maintenance records	\$55,500
West Liberty, IA	395.8(e): False logs	\$53,960
Bakersfield, CA	395.8(i): Failure to submit logs within 13 days 391.11(a): Using an unqualified driver 382.305(b)(2): Random drug testing 391.45(b)(1): Expired medical certificate 392.9a(a)(1): No operating authority	\$51,560
Gibsonton, FL	396.9(c)(2): Operating an out-of-service vehicle 382.301(a): Pre-employment drug testing 383.23(a): Driving without a CDL 391.51(b)(7): No medical examiner's certificate 395.8(k)(1): Log retention	\$50,630
Searcy, AR	395.8(e): False logs	\$49,880
Laredo, TX	395.8(e): False logs 49.305(a): Return-to-duty testing 382.215: Driving after positive test 382.301(a): Pre-employment drug testing 391.51(b)(2): No driving record on file 391.51(b)(7): No medical examiner's certificate	\$49,120

The appendices to 49 CFR Part 386 list the potential civil penalties for violating the Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations. Failing to prepare a required record can cost up to \$1,000 per day, while falsifying a record may cost up to \$10,000.

GENERAL INFORMATION

TOP 10 ACUTE VIOLATIONS OF 2012

Acute violations are considered to be among the most serious violations found during audits, requiring immediate corrective action by the motor carrier. For each acute violation found during an audit, the FMCSA will assign one point against the carrier's audit results, which can ultimately negatively affect the carrier's safety rating

Rank	Section	Description
1	382.115(a)	Failing to implement an alcohol and/or drug testing program
2	382.305	Failing to implement random drug or alcohol testing
3	383.37(a)	Allowing driver to operate with suspended/revoked CDL
4	387.7(a)	Inadequate or no financial responsibility
5	390.35	Requiring, permitting, or making false statements or records
6	382.215	Using a driver who has tested positive for a drug
7	396.9(c)(2)	Operating an out-of-service vehicle
8	172.800(b)	Transporting Hazmat without a security plan
9	391.11(a)	Using an unqualified driver
10	383.51(a)	Driving a CMV (CDL) while disqualified

TOP 10 CRITICAL VIOLATIONS OF 2012

The following are the top 10 most-cited "critical" violations found during FMCSA audits conducted in 2012. Critical violations are deemed less severe than acute violations, and the auditor needs to find a pattern of critical violations (over 10% of records checked) before they will effect the carrier's safety rating

Rank	Section	Description
1	396.11(a)	Failing to require driver to prepare vehicle inspection report
2	395.8(e)	False report of drivers record of duty status
3	395.8(a)	No drivers record of duty status
4	395.8(k)(1)	Retention of driver's record of duty status
5	382.301(a)	Using a driver before receiving a pre-employment drug testing result
6	396.17(a)	Using a CMV without an annual inspection
7	391.51(b)(2)	Inquiries into driving record not kept in DQ file
8	396.3(b)	Failing to keep minimum records of inspection and maintenance
9	382.305(b)(2)	Failing to do random drug tests at applicable annual rate
10	395.8(i)	Failing to submit record of duty status within 13 days

MY TURN

REMEMBER 6TH GRADE?

I do! I lived in "Chevy Chase", a suburb of Washington, D.C. It was in the 50's and everything was different then. Imagine this - the Federal Debt was \$279 billion (total). Federal annual spending was \$82 billion (total). Unemployment was 4.3%. Cost of a first-class stamp was 3¢. Life expectancy was 69.6 years. U.S. population was 174 million. The U.S. Supreme Court ruled unanimously that Little Rock, Arkansas schools must integrate. "Cat On A Hot Tin Roof" was in the movies.

The walk to Blessed Sacrament, my Catholic school, was about a mile. We went to Mass every morning before class, and thought that was normal.

I remember when Sister Agnes kicked me off the Patrol Boys. The Patrol Boys function was to stand on the street corner before and after school and make sure it was safe before the younger children could cross the street. In the Patrol Boys meeting one afternoon she described reports of how one of the Patrol was pressuring younger students to give him (there were no Patrol Girls) goodies,...bananas, apples, candy, from their lunch box before he would let them cross the street. It wasn't me (really), but when she described it in the meeting I laughed out loud and couldn't stop. Sister Agnes said "Was it you"? I said "No" but couldn't stop laughing, and now everyone was laughing. I was guilty by laughter, but possibly my notoriety at Blessed Sacrament for trouble may have also influenced Sister Agnes.

I don't remember why, but somehow in 5th grade I was assigned the job of delivering milk cartons for the morning break to the classrooms. These were little 5 oz. cartons of milk, both white and chocolate. They were delivered to the school yard on a pallet and it was my job to separate the chocolate and white milk according to a printed list that showed how many of each went to each classroom (i.e., 3rd grade - 12 white, 10 chocolate). And there was a metal carrier to hold the cartons of milk for each class. After separating the milk, and filling each carrier with the designated number of chocolate and white, I would deliver the carrier to the appropriate classroom. I liked this job because while I was

doing this I wasn't in religion class, or English class, or whatever. What is interesting to me about all this is that every day for the two years I held this job I would purposely give two or three classrooms a day the wrong count of white and chocolate milk, like 2 or 3 off. Instead of 12 white, 10 chocolate shown on the sheet for 3rd grade I may give them 9 white and 13 chocolate, or vice-versa. I don't know why I did that. There would be complaints from the teachers and the kids and I would be asked about it by my homeroom nun, but I never stopped and for some reason they never kicked me off that job.

Youth was a magical time for me. Sixth grade was the year of my first kiss, and it had nothing to do with school. This may sound weird, but it's true - there were three girls - Edwina Miles, Judy Logan, and Margaret Mary Popkins - in the neighborhood who had a crush on me. I liked them all too, but there was a problem. Kind of a nice problem. Edwina's older sister, Diana (14), told me that I had to pick one to be my girlfriend and the one I picked I had to kiss, on the lips. This was a problem for me. I would have loved to be either one's boyfriend and kiss either one, or all, but I was terrified I would do it wrong and would be mortally embarrassed. I mean I was really frightened, so this went on for a while. I tried to stay away from all of them. Thank the lord, one afternoon the problem solved itself. I came out of my house and the three girls, and Diana, were waiting for me on the sidewalk, silent. Then Diana said "you must decide now" and the four of them grabbed me threw me down on the ground on my back. So now they are all looking down at me and Diana says "which one." I'm silent - Diana, all smiling, says again - "which one!" They were all cute so I just picked Diana's sister Edwina, who then leaned down with that beautiful little face with those huge brown eyes and kissed me on the lips. It only lasted a few seconds, but Oh My God!, how sweet that kiss was. It turned out Edwina and I came to really like each other and were boyfriend/girlfriend hanging around together all summer between 6th and 7th grade, through the school year and the next summer, until I went away to boarding school in Florida for the 8th grade. I will never forget Edwina, that first kiss, or my 6th grade. How was yours?



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