



DUMP TRUCK CARRIERS CONFERENCE

NEWSLETTER

VOL. 62

February 2014

THOMAS JEFFERSON, THE FACTS:

- At 5, began studying under his cousin's tutor.
- At 9, studied Latin, Greek, and French.
- At 14, studied classical literature and additional languages.
- At 16, entered the College of William and Mary. Also could write in Greek with one hand while writing the same in Latin with the other.
- At 19, studied Law for 5 years starting under George Wythe.
- At 23, started his own law practice.
- At 25, was elected to the Virginia House of Burgesses.
- At 31, wrote the widely circulated "Summary View of the Rights of British America? And retired from his law practice.
- At 32, was a Delegate to the Second Continental Congress.
- At 33, wrote the Declaration of Independence.
- At 33, took three years to revise Virginia's legal code and wrote a Public Education bill and a statute for Religious Freedom.
- At 36, was elected the second Governor of Virginia succeeding Patrick Henry.
- At 40, served in Congress for two years.
- At 41, was the American minister to France and negotiated commercial treaties with European nations along with Ben Franklin and John Adams.
- At 46, served as the first Secretary of State under George Washington.
- At 53, served as Vice President and was elected President of the American Philosophical Society.
- At 55, drafted the Kentucky Resolutions and became the active head of Republican Party.
- At 57, was elected the third President of the United States.
- At 60, obtained the Louisiana Purchase doubling the nation's size.
- At 61, was elected to a second term as President.
- At 65, retired to Monticello.
- At 80, helped President Monroe shape the Monroe Doctrine.
- At 81, almost single-handedly created the University of Virginia and served as its first President.
- At 83, died on the 50th anniversary of the Signing of the Declaration of Independence along with John Adams.

QUOTABLE

"The democracy will cease to exist when you take away from those who are willing to work and give to those who would not"

...Thomas Jefferson

GENERAL INFORMATION

DO TRUCKERS NEED SPEED LIMITERS? CAR DRIVERS THINK SO

Three out of five car drivers surveyed think it's a "good idea" for truck drivers to be forced to use speed limiters, but they don't want the devices in their own vehicles.

Just 24% of drivers are in favor of mandatory speed governors for all drivers, according to a recent survey by the National Highway Traffic Safety Administration (NHTSA).

Other survey findings:

- 77% of drivers support mandatory use of speed limiters for drivers under 18 years of age;
- 82% think drivers with multiple speeding tickets should use speed limiters;

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- Women were more likely than men to agree that speed limiters are a good idea; and
- A larger percentage of older drivers think speed limiters are a good idea for young drivers, but older drivers are less likely than younger drivers to agree that speed limiters are a good idea for truck drivers.

SUPREME COURT ALLOWS CITIES TO REGULATE TOWING COMPANIES

(By: Anthony E. Palmer, Jr./Alden Law)

In its January 2014 decision, the Supreme Court of Ohio held that a state law that prohibited municipalities from licensing, registering, or regulating towing companies was unconstitutional.

In the case, Cleveland sued the State of Ohio over a state law passed in 2003 that provided for statewide regulation of towing companies. The state law expressly prohibited cities from imposing regulations on towing companies.

The Supreme Court found this ban to be unconstitutional because it limited the power of cities to enact similar regulations that were not in conflict with state law.

This decision now allows cities to regulate towing companies, in addition to PUCO regulations, so long as the city regulations are not in conflict with state law.

The court did not decide whether Cleveland's towing regulations conflicted with Ohio's regulations. That dispute will be settled another day.

GENERAL INFORMATION

"LOCAL DRIVER" - USE CAUTION WITH 30-MINUTE BREAK EXCEPTION

Short-haul (local) drivers have been exempt from the "30-minute rest-break within 8 hours of coming on duty requirement" since early last August, but what happens on days when they fail to qualify as short-haul drivers?

According to the new guidance from the Federal Motor Carrier Safety Administration (FMCSA), the drivers will need to get the break but they may not be in violation if they've already exceeded the 8-hour limit with no break.

Due to a 2013 court decision, CDL truck drivers who operate within 100-air miles of their terminal are exempt from the requirement in Sec. 395.3 to take a 30-minute rest break before driving after the 8th hour of the day, in addition to being exempt from needing to fill out logs.

However, many short-haul drivers unexpectedly find themselves exceeding the time or distance limits placed on the short-haul exceptions, often after they've already worked for 8 or more hours.

At that point they no longer qualify as short-haul drivers and must complete a log for that day. But would they be in violation of the rest-break requirement if they've already driven after the 8th hour without a break?

The answer is no, according to the FMCSA's new guidance.

"A driver using a Sec. 395.1(e) short-haul exception who finds it necessary to exceed the exception limitations for unforeseen reasons, is not in violation of the Sec. 395.3 rest-break requirements if 8 or more hours have passed at the time the driver becomes aware of the inability to use the short-haul exception," the new guidance reads.

The new guidance took effect on December 19, 2013.

Limitations

Actually two short-haul exceptions are available, each with its own limitations. Both exempt drivers from the need to complete a log or take a 30-minute rest break, but basic time records must be maintained and the drivers must return to their normal work-reporting location at the end of the day.

- **395.1(e)(1):** The 100-air-mile exception limits CDL drivers to a 100-air-mile radius and 12 consecutive hours on the clock.
- **395.1(e)(2):** The 150-air-mile exception, for drivers who are not required to hold a CDL, increases the distance limitation and removes the 12-hour restriction.

On August 2, 2013, the FMCSA stopped enforcing the 30-minute break requirement on drivers who qualify for one of the short-haul exceptions, in compliance with a decision from the U.S. Court of Appeals for the District of Columbia Circuit.

The Guidance

The new formal guidance for Sec. 395.1 reads as follows:

"Question 33: If a driver using either short-haul exception in Sec. 395.1(e) finds it necessary to exceed the exception limitations for unforeseen reasons, is the driver in violation of the Sec. 395.3 rest break provision if more than 8 hours have passed without having taken the required rest break?"

GENERAL INFORMATION

"LOCAL DRIVER" - USE CAUTION WITH 30-MINUTE BREAK EXCEPTION (Cont'd)

The Guidance (Cont'd)

The new formal guidance for Sec. 395.1 reads as follows: (Cont'd)

"Guidance: No. A driver using a Sec. 395.1(e) short-haul exception who finds it necessary to exceed the exception limitations for unforeseen reasons, is not in violation of the Sec. 395.3 rest-break requirements if 8 or more hours have passed at the time the driver becomes aware of the inability to use the short-haul exception. The driver should annotate the record-of-duty-status to indicate why the required rest break was not taken earlier, and should take the break at the earliest safe opportunity."

PSP PROGRAM IMPROVES SAFETY

The government's pre-employment screening program (PSP) is having positive effects on highway safety, a new study has found.

The study concluded that truck and bus companies using PSP have decreased both their crash rates and driver out-of-service rates when compared to companies not using the program.

The program, launched in 2010, provides motor carriers with instant access to a driver's five-year accident history and three-year roadside inspection history as part of the pre-hire process. The Federal Motor Carrier Safety Administration (FMCSA) encourages use of the program but does not mandate its use.

8% Reduction

The FMCSA study analyzed motor carriers who use PSP on at least a monthly basis against a control group of carriers that are not PSP users. Companies using PSP realized, on average, an 8 percent reduction in their crash rate and a 17 percent decrease in their driver out-of-service rate.

Based on those figures, the FMCSA estimates that, had the carriers experienced the same improvement rate yet started using PSP a year earlier, they would have prevented nearly 3,600 drivers from being placed out-of-service at the roadside and 863 commercial motor vehicle crashes.

The decline in crash rates was largest for carriers with between 6 and 20 drivers, falling almost 21 percent. The decline in driver out-of-service rates was largest for carriers with 1 to 5 drivers, falling 18.3 percent.

On The Rise

According to the FMCSA, the number of PSP users has steadily increased on a monthly basis since PSP first opened. The total number of requests to the PSP system has also increased. In August 2012, about 35,000 PSP users made about 70,000 requests per month.

As part of the study, the FMCSA surveyed carriers in how the PSP reports are being used. The agency found that carriers typically use the PSP report to ensure that drivers accurately report information on their applications and do not omit places of employment or crashes.

Violations in the PSP report for pre-trip inspections, logs, and speeding were high on the list of concerns and were generally believed to be a good indication of a driver's safety performance, the FMCSA says.

"Input from motor carriers generally indicated that using PSP would help them hire the best drivers available and would improve their overall safety ratings," the FMCSA reported. "These same motor carriers also noted that drivers with good safety records were in much higher demand and that they potentially could command better compensation and benefits."

You may request drivers PSP data at <http://www.psp.fmcsa.dot.gov>.

GENERAL INFORMATION

TRUCKING COMPANIES VIOLATED WHISTLEBLOWER RULES

Two trucking companies in Ohio and North Carolina have been ordered to pay damages for wrongfully terminating their drivers in violation of whistleblower provisions enforced by the Occupational Safety and Health Administration (OSHA).

The now-defunct Ohio-based trucking company and its owner have been ordered to pay two drivers more than \$300,000 to resolve a U.S. Department of Labor lawsuit.

The drivers were dismissed after one was stopped and cited by West Virginia State Police for hauling an excess load without a commercial driver's license, operating an overweight trailer, and driving without a logbook. In addition, the commercial vehicle did not have the name of the company, its home base, or its USDOT number displayed.

The cited driver informed another driver, who was also operating without displaying the proper information, and both refused to continue driving until the company resolved the issues.

The drivers were subsequently terminated and filed complaints with OSHA. A Labor Department administrative law judge issued an order for reinstatement and back wages totaling \$302,000, to be paid over a three-year period.

Over \$1 Million

The North Carolina company and its owners must compensate four former truck drivers over \$1 million in back-pay wages, interest, and compensatory and punitive damages.

Early in 2012, the four employees were interviewed on-site by the Federal Motor Carrier Safety Administration during an inspection of the company's facility. Following the audit and

subsequent citations issued against the company, company officials retaliated against the employees through termination, lay-offs, and removal of employee benefits.

OSHA ordered preliminary reinstatement for three of the four employees (the fourth died in early 2013), back wages, interest, and compensatory and punitive damages totaling more than \$1 million.

Fact sheets and detailed information on employee whistleblower rights are available online at www.whistleblowers.gov. Assistance is also available through OSHA's toll-free hotline at (800) 321-6742.

A fact sheet about whistleblower rights in the transportation industry in particular is available online at: 1.usa.gov/S3xC9a.

CSA SCORING SYSTEM "IMPERFECT AND UNRELIABLE," ATA SAYS

Motor carrier's scores in the Compliance, Safety, Accountability (CSA) enforcement program are unreliable as measures of that carrier's safety performance, according to a new report from American Trucking Associations (ATA).

The trade association issued a white paper looking at how reliable CSA scores are in evaluating the safety of individual trucking companies.

In the paper, ATA examined data and research on the connection between CSA scores and crash risk, as well as how problems with the data and methodology produce an "imperfect and unreliable measure of a carrier's safety record."

GENERAL INFORMATION

CSA SCORING SYSTEM "IMPERFECT AND UNRELIABLE," ATA SAYS (Cont'd)

Peers

The Federal Motor Carrier Safety Administration's (FMCSA) CSA program uses violation and inspection data to rank carriers in terms of their compliance and safety records. It is basically grading on the "curve". Those with the worst performance relative to their peers are then targeted with enforcement actions, such as audits.

"It may make sense for FMCSA to use scores in those categories that correlate positively with crash risk to prioritize companies for enforcement review," Graves said "In the process, FMCSA can verify whether or not the scores paint an accurate picture. But third parties need to know that for the purposes of drawing conclusions about individual carriers, the scores are unreliable."

Crash Risk

The paper cites an analysis conducted by the American Transportation Research Institute which found a positive relationship between scores and crashes in the Unsafe Driving, Hours-Of-Service Compliance, and Vehicle Maintenance categories, with the strongest relationship being in Unsafe Driving. That is, high (bad) scores in those categories are associated with higher crash risk.

Even in those scoring categories, however, the paper says there are tens of thousands of real-world "exceptions," carriers with high scores and low crash rates and vice-versa.

ATRI found a negative relationship between scores and crash involvement in the Driver Fitness and Controlled Substances and Alcohol categories, meaning bad scores were found to be

associated with lower crash risk.

The relationship between scores and crash risk is impacted by a number of data and methodology problems that plague the system, ATA claims, including:

- A substantial lack of data, particularly on small carriers who comprise the bulk of the industry;
- Regional enforcement disparities;
- The questionable assignment of severity weights to individual violations;
- The underreporting of crashes by states;
- The inclusion of crashes that were not caused by motor carriers; and
- The increased exposure to crashes experienced by carriers operating in urban environments.

"The sheer number of "exceptions" and the presence of numerous data and methodology problems lead to the conclusion that (CSA) scores alone as measures of individual carrier safety performance are, at a minimum, unreliable," the white paper concludes.

The ATA report is available online at: <http://bit.ly/19McLAX>.

"The beauty of the Second Amendment is that it will not be needed until they try to take it."

...Thomas Jefferson

MY TURN - PAST REJECTION



Playgirl

Magazine

Mr. Larry Dannemiller
95 Woodland Drive
Powell, Ohio 43065

Dear Mr. Dannemiller:

We wish to thank you again for your letter and Polaroid photo which we recently received. Regretfully, however, for the 10th and hopefully, the last time, we will not be able to use your photo as our "PLAYGIRL MAN OF THE MONTH" centerfold. As we indicated to you in prior correspondence our philosophy is that the male form rapidly deteriorates beyond the mid 20's. Therefore, the submission from a fifty year old is ludicrous.

Nevertheless, in view of your persistence, we did submit your most recent photo to our evaluation panel. That panel, the AAW (Avaricious American Women) on a scale of 1 - 10 rated your body a minus two (-2). The panel is comprised of widowed females ranging in age from 50-75 years who have been deprived of sexual activity for a minimum of five years.

To confirm your below average rating, we also submitted your photograph to a second panel. The HBA (Horny Broads of America), range in age between 25 and 35. However, we could not get them to contain their laughter long enough to rate you.

Please be assured when the taste of American Woman so drastically change that an aging body such as yours would be in demand, you will be promptly notified. Meanwhile, please refrain from sending in more pictures. We will call you.

We hope this will not dampen the enthusiasm with which you approach your fifty-first year. Happy Birthday!

Sincerely,
PLAYGIRL, INC.

Ophelia Rump
Editor

P.S. It further pains us to inform you, that had your photo been used the staple holding our centerfold together would have completely obstructed what you refer to as your "item of interest."



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