



DUMP TRUCK CARRIERS CONFERENCE

NEWSLETTER

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PET FISH

A redneck with a bucket full of live fish was approached recently by a game warden in North Carolina as he started to drive his boat away from a lake.

The game warden asked the man, "May I see your fishing license please?"

"Naw, sir," replied the redneck. "I don't need none of them there papers. These are my pet fish."

"Pet fish?"

"Yup. Once a week, I bring my fish down to the lake and let 'em swim 'round for a while. Then when I whistle, they swim right back into my net and I take 'em home."

"What a line of horse manure...you're under arrest."

The redneck said, "It's the truth, Mr. Warden. I'll show ya! We do this all the time!!"

"We do, now, do we?" smirked the warden. "PROVE IT!"

The redneck released the fish into the lake and stood and waited.

After a few minutes, the game warden said, "Well?"

"Well, WHAT?" said the redneck.

The warden asked, "When are you going to call them back?"

"Call who back?"

"The FISH!," replied the warden.

"What fish?" asked the redneck.

DID YOU KNOW?

Weight Limits - House Bill (H.B.) 153, after several amendments, increased the weight limit tolerance on certain dump truck commodities named in Section 5577.043 of the Ohio Code from 5% to 7.5%. This would allow the same weight tolerance as previously applied to coal, grain, and timber under Section 5577.042.

Safety Belt Usage by commercial drivers increased to 78% in 2010 (compared to 74% in 2009).

QUOTABLE

"Democracy is two wolves and a lamb voting on what to have for lunch. Liberty is a well-armed lamb contesting the vote"

...Benjamin Franklin

GENERAL INFORMATION

TRAFFIC FATALITIES DROP TO LOWEST LEVEL EVER RECORDED

Both the number and rate of traffic fatalities in 2010 fell to the lowest levels since 1949, despite a significant increase in the number of miles Americans drove during the year, the U.S. Department of Transportation (DOT) has reported.

According to early projections, the number of traffic fatalities fell three percent between 2009 and 2010, from 33,808 to 32,788. Since 2005, fatalities have dropped 24 percent. The DOT projects that the fatality rate will be the lowest recorded since 1949, with 1.09 fatalities per 100 million vehicle miles traveled.

The decrease in fatalities for 2010 occurred despite an estimated increase of nearly 21 billion miles in national vehicle miles traveled. Americans drove three trillion miles in 2010, the most vehicle miles traveled since 2007 and the third-highest ever recorded, the DOT says.

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Submissions by members and interested parties are welcome.

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DOT INTERPRETATION - PRE-EMPLOYMENT TESTING

Q: May an employer conduct a road test administered in accordance with 49 CFR 391.31 prior to driver-applicant subject to 49 CFR 382 submits to a pre-employment controlled substances test?

A: Yes. An employer may administer a road test to a prospective driver subject to Part 382 without first testing him/her for controlled substances. The intent of the road test is to effectively evaluate the driver's ability to operate a commercial motor vehicle (CMV). This guidance does not allow the motor carrier to dispatch the prospective driver on his/her first trip prior to obtaining a verified negative test result.

DOT INTERPRETATIONS - POST-ACCIDENT TESTING

Q: May an employer allow a driver, subject to post-accident controlled substances testing, to continue to drive pending receipt of the results of the controlled substances test?

A: Yes. A driver may continue to drive, so long as no other restrictions are imposed by 382.307 or by law enforcement officials.

Q: A commercial motor vehicle operator is involved in an accident in which an individual is injured but does not die from the injuries until a later date. The commercial motor vehicle driver does not receive a citation under State or local law for a moving traffic violation arising from the accident. How long after the accident is the employer required to attempt to have the driver subjected to post-accident testing.

GENERAL INFORMATION

DOT INTERPRETATIONS - POST ACCIDENT TESTING (Cont'd)

A: Each employer is required to test each surviving driver for alcohol and controlled substance as soon as practicable following an accident as required by 382.303. However, if an alcohol test is not administered within 8 hours following the accident, or if a controlled substance test is not administered within 32 hours following the accident, the employer must cease attempts to administer that test. In both cases the employer must prepare and maintain a record stating the reason(s) the test(s) were not promptly administered.

If the fatality occurs following the accident and within the time limits for the required tests, the employer shall attempt to conduct the tests until the respective time limits are reached. The employer is not required to conduct any tests for cases in which the fatality occurs outside of the 8 and 32 hour time limits.

TOUGH NEW COMMERCIAL DRIVER LICENSING STANDARDS ISSUED

Changes are on the way for the commercial driver licensing process now that the Federal Motor Carrier Safety Administration (FMCSA) has adopted tough new licensing standards.

Under the new rules, drivers will be required to hold a commercial learner's permit for at least two weeks prior to seeking a commercial driver's license (CDL), and will have to pass rigorous knowledge and skills tests to get that permit. Permit holders will also be subject to the same disqualification penalties as CDL holders.

The new standards took effect on July 8, 2011, but states were given an additional three years to modify their licensing programs. The rules primarily affect commercial drivers and state licensing agencies, although motor carriers will be prohibited from allowing drivers to operate commercial motor vehicles without a current and appropriate learner's permit or CDL or in violation of the permit or CDL's restrictions.

Synopsis Of Changes:

- Applicants for a learner's permit will have to pass knowledge and skills tests similar to those taken by CDL applicants, using an FMCSA-approved testing system.
- Foreign language interpreters will be prohibited during the administration of the knowledge and skills tests.
- CDL applicants will first have to hold a learner's permit for a minimum of 14 days.
- Those seeking a learner's permit must be at least 18 years old.
- The permit itself must be a separate document from other licenses, must be tamper proof, and must include the same information as the CDL.
- The only endorsements allowed on the learner's permit are a restricted passenger (P) endorsement, a school bus (S) endorsement, and a tank vehicle (N) endorsement.
- Drivers found to have a disqualifying violation on their record under 383.51 when applying for a learner's permit will be denied the permit.

GENERAL INFORMATION

TOUGH NEW COMMERCIAL DRIVER LICENSING STANDARDS ISSUED (Cont'd)

Synopsis Of Changes: (Cont'd)

- To combat fraud, learner's permit and CDL applicants will have to show documentation to prove legal presence in the United States, social security numbers will have to be verified, expired permits and CDLs will have to be physically altered, and states will have to retain digital photos of all applicants.
- States are required to recognize learner's permits issued by other states for training purposes, making it easier for drivers to attend driver training schools in other states.
- Learner's permits will be valid for 180 days and can be renewed for another 180 days before the driver is required to re-take the knowledge tests.
- CDLs will be valid for a maximum of eight years, which will affect a handful of states with longer renewal cycles.
- States will be required to use standardized endorsement and restriction codes on their CDLs. Applicants who use a vehicle in the skills test that is equipped with either an automatic transmission, air-over-hydraulic brakes, or a trailer with a non-fifth wheel (pintle hook) connection will be assigned a restriction code to prevent the operation of vehicle with manual transmissions, air brakes, or trailers equipped with fifth wheels, respectively.

The rules appeared in the *Federal Register* on May 9, 2011.

RULE EXPANDS CMV DEFINITION

The new driver licensing rules will change the definition of "commercial motor vehicle" for driver licensing purposes. The definition in 49 CR 383.5 has been expanded to cover the vehicle's gross weight rather than focusing exclusively on the weight *rating*.

According to the FMCSA, the intent of the change is to allow for roadside enforcement against drivers who do not have a CDL but are operating vehicles with an actual weight of more than 26,000 pounds.

The following is an excerpt from the new definition:

"Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- (1) Has a gross combination weight rating or gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds, whichever is greater; or
- (2) Has a gross vehicle weight rating or gross vehicle weight of 26,001 pounds or more, whichever is greater..."

INCREASED IRS MILEAGE RATE

The IRS has increased the standard mileage rate deduction by 4.5¢ per mile to 55.5¢ per mile for automobile business miles driven from July 1, 2011 through December 31, 2011.

GENERAL INFORMATION

RISKY DRIVING BEHAVIORS LINKED TO CRASH INVOLVEMENT

A recent study indicates certain unsafe driving behaviors can predict the relative risk that a truck driver will be involved in a future crash.

The study by the American Transportation Research Institute looked at records from over 588,000 U.S. truck drivers over a two-year period to identify the specific types of driver behaviors - as revealed through their violations, convictions, and crashes.

The analysis shows that a "failure to use/improper signal" conviction was the leading conviction associated with an increased likelihood of a future crash. When a truck driver was convicted of this offense, the driver's likelihood of a future crash increased 96 percent.

In relation to driver violations, an "improper passing" violation had the strongest association with crash involvement. Drivers with this violation were 88 percent more likely than their peers to be involved in a crash.

Top 10 Driver Violations Associated With Future Accident Risk

Event	Increase in Future Crash Likelihood
A conviction for "Failure to Use/Improper Signal"	96%
A past crash	88%
A violation for "Improper Passing"	88%
A conviction for "Improper Turn"	84%
A conviction for "Improper or Erratic Lane Change"	80%
A conviction for "Failure to Obey Traffic Sign"	68%
A conviction for speeding more than 15 mph over limit	67%
Any conviction	65%
A conviction for "Reckless/Careless/Inattentive/Negligent Driving"	64%

OPERATIONAL COST REPORT RELEASED

The American Transportation Research Institute (ATRI) recently released the findings of its 2011 update to *An Analysis of the Operational Costs of Trucking*. The research, which identified trucking costs from 2009 and the first quarter of 2010, derived directly from fleet operations and will provide carriers with an important high-level benchmarking tool.

The average marginal cost per mile was \$1.45 in 2009 and \$1.49 in the first quarter of 2010 for the for-hire segment of the industry. These figures were lower than the average marginal cost per mile of \$1.65 found in the revised 2008 analysis. Fuel cost centers for carriers, constituting 58 percent of the average operating costs for the first quarter of 2010.

A copy of the report is available from ATRI at www.atri-online.org.

HEAVY VEHICLE USE TAX (HVUT) DEADLINE

The IRS has advised owners of heavy highway vehicles that their next federal highway use tax return, usually due August 31st, will instead be due on November 30, 2011. The November 30th filing deadline for Form 2290, for the tax period that begins on July 1, 2011, applies to vehicles used during July as well as those first used during August or September. Returns should not be filed and payments should not be made prior to November 1.

For vehicles acquired or registered during the July to November period, the new regulations require a state to register the vehicle without proof that the highway use tax was paid if the person registering the vehicle presents a copy of the bill of sale or similar document showing that the owner purchased the vehicle within the previous 150 days.

Go to www.irs.gov/trucker or call the excise Department at 1-866-699-4096 for all updates about the availability of Form 2290 and 2290 e-file.

OPPORTUNITY IN NOVEMBER

(by Larry Dannemiller)

Ohio is one of six states that makes up half of the unionized workforce in America. According to the U.S. Bureau of Labor statistics, at it's peak in 1989 Ohio union membership was 21.3% of the Ohio workforce, in 2001-17.6%, in 2009-14.2%. In 2010, 13.7% or 655,000 workers were union members. During this period, while private sector union membership decreased, membership in public sector unions has increased to approximately 360,000...or 55% of all Ohio union membership.

Relatively high taxes and the construct of Ohio labor laws, that often deny workers the freedom to choose whether they wish to join a union, are huge contributing factors to Ohio's low nationwide rank in business climate. It is significant. In 1994 there were 42 *Fortune 500* companies headquartered in Ohio. Today there are 23. Ohio has lost more large companies than any other state. Generally the migration has been to right-to-work states like North Carolina, Texas, Florida, and Georgia.

Union officials in states like Ohio, that have not adopted right-to-work laws, funnel a large portion of the compulsory union dues in contributions to influence the outcome of elections. Bizarre as it would seem in America, if you want to be a teacher in most school systems in Ohio you must join the union, pay union dues, and regardless of your individual political affiliation, watch a significant portion of your dues given to the democratic party. Often, elected officials which benefit are understandably afraid to anger union bosses, even in the face of financial crisis and the specter of huge unfunded pension liabilities. As Victor Gotbaum, head of a public sector union in Manhattan said many years ago: "we have the ability, in a sense, to elect our own boss."

Senate Bill 5 (S.B. 5), was passed on

March 30, 2011, but will be held in abeyance pending the near certain holding of a referendum to repeal on November 8th. S.B. 5 represented a sweeping revamp of Ohio's public sector bargaining laws in an attempt to avoid future disaster due to escalating, uncontrollable cost and liabilities. A fair assessment of the amendments as a whole is that they collectively afford public employers greater ability to manage public employees, direct the provision of public services, and manage healthcare, pension, and other costs. S.B. 5 has no effect on private employers and their union contracts.

Even though S.B. 5 involves only public sector union activities, the campaign for signatures necessary to place the petition to repeal on the November ballot has naturally been assisted by private sector unions and has accumulated the largest number of signatures of any referendum in Ohio history. This illustrates the degree of intensity and effort the opponents of S.B. 5 will generate in the next few months in attempting to repeal this legislation.

Ohio's registered voting population in 2010 was 8,013,558. There are 360,000 public sector union members (4.5% of voters). Even when teamed up with private sector union members (3.7% of voters), the combination totals only 8.2% of Ohio voters.

So, can they win? The math tells us - "of course not" - but one poll shows that if the election were today, 54% of those asked favor repeal. Can that be possible? The notion that an 8.2% constituency could persuade another 42% of the voters (most of whom now involuntarily pay to support the union excesses S.B. 5 would curtail) just doesn't ring true.

We can win! It's all about turnout. I hope we all show up because they certainly will.



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