



DUMP TRUCK CARRIERS CONFERENCE

NEWSLETTER

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WILL ROGERS, who died in a plane crash in 1935, was a great political sage. Some of his sayings:

- "Never miss a good chance to shut up."
- "If you find yourself in a hole, stop digging."
- "There are two theories to arguing with a woman. Neither works."
- "Never slap a man who's chewing tobacco."
- "Always drink upstream from the herd."
- "Good judgment comes from experience, and a lot of that comes from bad judgment."
- "If you're riding' ahead of the herd, take a look back every now and then to make sure it's still there."
- "The quickest way to double your money is to fold it and put it back into your pocket."
- "When you are dissatisfied and would like to go back to your youth, just think of Algebra II."
- "There are three kinds of men: The ones that learn by reading. The few who learn by observation. The rest of them have to pee on the electric fence and find out for themselves."

SPEED LIMIT ON OHIO TURNPIKE

The posted speed limit on the Ohio Turnpike is 70 mph for all vehicles, but the turnpike commission is stressing that its ambitious construction and repaving program for this year has resulted in posted 50 mph speed limits through certain areas. Enforcement has also been ramped up to protect the workers in these areas, so make sure your drivers know to obey the limit and prevent a ticket.

DID YOU KNOW?

Off-road motorized construction equipment **does not** meet the definition of a "Commercial Motor Vehicle" as defined in CFR 383.5 and 390.5 (and is therefore unregulated by DOT/PUCO), when (1) operated at construction sites, or (2) when operated on a public road open to unrestricted public travel, provided the equipment is not used in furtherance of a transportation purpose.

QUOTABLE

"Apparently, I'm supposed to be more outraged by what Mitt Romney does with his money than by what Barack Obama does with mine."

- *Anonymous*

GENERAL INFORMATION

AGENCY CLARIFIES STANCE ON PUSH-TO-TALK PHONES

Responding to numerous questions about what is and is not allowed under its new hand-held cell-phone ban. The Federal Motor Carrier Safety Administration (FMCSA) has clarified its position on the use of push-to-talk devices.

When the ban was first announced in December, the agency indicated that push-to-talk devices are subject to the ban because, in general, they are standard cell phones that require the driver to hold them and/or push buttons while talking.

The agency has since clarified that position by stating that such devices are allowed as long as "the driver does not reach for, dial, or hold the actual mobile telephone in his/her hand while driving and the driver is able to touch the button needed to operate the push-to-talk feature from the normal seated position with the safety belt fastened."

The agency goes on to explain that if the phone is mounted in a cradle or similar device near the driver or there is a remote push-to-talk button near the vehicle controls to allow the driver to communicate without reaching for, dialing, or holding the actual phone in his/her hands while driving, then the equipment may be used while driving.

AGENCY CLARIFIES IMPACT OF NEW HOURS-OF-SERVICE RULES

The Federal Motor Carrier Safety Administration (FMCSA) has issued new information about compliance with the Hours-Of-Service rules that were issued in December and that (partially) took effect on February 27, 2012, with the restrictive portions to take effect July 1, 2013.

The following Q & A guidance appeared about six weeks after the agency published the new rules:

Q: Will the provision that only allows one 34-hour restart per 168 hours limit drivers' incomes?

A: The rule will limit income for those drivers who currently are able to drive more than 70 hours a week on a continuing basis. Almost all of the drivers affected by the provision are long-haul truckload drivers who are paid by the mile. The provision reduces possible driving hours less than total duty time.

Q: Are drivers using the "100 air-mile radius" or "non-CDL 150 air-mile radius" provisions in 395.1(e) required to take the minimum 30-minute break if applicable (as required beginning July 1, 2013)?

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Dannemiller Associates, Inc.
7792 Olentangy River Road, Suite F-2
Columbus, Ohio 43235
(614) 431-8740
Fax: (614) 431-8742
Website: Dannemiller.US
E-mail: Larry@Dannemiller.US

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GENERAL INFORMATION

AGENCY CLARIFIES IMPACT OF NEW HOURS-OF-SERVICE RULES (Cont'd)

A: Yes. Drivers operating under the 395.1(e) exceptions may not drive if more than 8 consecutive hours have passed since the last off-duty period of at least 30 minutes. Because they are not required to maintain logs, they are not required to record the break periods.

Q: Do the 2 hours in the passenger seat (that can be logged "off-duty" if spent before or after a period of 8 consecutive hours in a sleeper berth) have to be a continuous period of 2 hours? What if more than 2 hours are spent in the passenger seat?

A: The 2 hours in the passenger seat does not have to be a continuous period of 2 hours. For example, 1 hour could be prior to the sleeper-berth time and 1 hour after. All of the sleeper-berth time and 2 hours of passenger-seat time must be consecutive in order to count the passenger-seat time as off-duty. If the co-driver exceeds 2 hours in the passenger seat in conjunction with at least 8 hours in the sleeper berth, any passenger-seat time in excess of 2 hours would be considered "on duty/not driving."

Q: Does the "egregious violation" provision apply to exceeding the 14-hour rule also?

A: No. The "egregious violation" provision only applies to driving time; that is, exceeding the 11-hour (property) or 10-hour (passenger) limits.

Q: If truck accidents have been declining, why does the rule need to be changed?

A: The decline in crashes and crash rates for

both trucks and cars started in the late 1970s and has continued for both types of vehicles. The declines tend to be sharper during periods of economic recession, but other factors, such as improved vehicle and road design, are generally considered to have contributed to reductions. Furthermore, the significant decrease in truck crashes may not necessarily translate into significant decreases in fatigue-related crashes. FMCSA believes that the 2003 rule, which limited the duty period and lengthened the off-duty period, has certainly not diminished safety, but the recent declines in crashes cannot be specifically attributed to that rule. More importantly, despite the improvement, 2,380 people were killed in truck crashes in 2009 (including 503 CMV drivers) and 74,000 were injured. Although historically low, the numbers are still far too high. Based on preliminary reports from the National Highway Traffic Safety Administration, the number of fatalities from truck crashes increased in 2010 by 8.7 percent, while car crashes continued to decline.

ATRI REQUESTS FEEDBACK ON CSA

The American Transportation Research Institute (ATRI) recently launched its second annual motor carrier survey to identify CSA impacts on trucking operations, as well as carrier perceptions and attitudes toward FMCSA's maturing regulatory program. This survey, which specifically seeks carrier input, will be compared with last year's research.

The brief online survey asks carriers for information on how their perceptions of CSA have changed or been affected as CSA continues its second full year of measuring motor carrier and driver safety performance. Your survey input will remain strictly confidential. To participate, go to www.atri-online.org to find the survey.

GENERAL INFORMATION

TOP 5 OSHA VIOLATIONS IN TRUCKING

The number of OSHA citations issued to trucking companies last year was down by about 34 percent over 2010, however, the cost of those violations rose significantly.

The tables below list the top most-cited Occupational Safety and Health Administration (OSHA) standards in 2011 for trucking along with average adjusted penalties levied for those violations.

In the **trucking sector** for 2011:

- 1,022 OSHA violations were recorded, down from 1,543 in 2010;
- Initial penalties totaled more than \$1.4 million;
- Final adjusted penalties totaled \$461,000;
- The average initial penalty per violation was \$1,416, up from \$791 in 2010; and
- The average adjusted penalty per violation was \$451, up from \$253 in 2010.

Truck Transportation

Standard Violated	Topic	Total Violations	Average Adjusted Penalty
1910.1200(e)(1)	Written hazard communication program	46	\$394
1910.1200(h)(1)	Hazard communication: Employee information and training	28	\$353
1904.41(b)(2)	Annual survey form: Returning within 30 days	21	\$216
1910.178(1)(4)(iii)	Powered industrial trucks: 3-year performance evaluation	21	\$338
1910.1200(g)(1)	Hazard communication: Material safety data sheets	21	\$0
1910.23(c)(1)	Walking-working surfaces: Protection of open-sided floors, platforms, and runways	18	\$365
1910.132(a)	Personal protective equipment: Provision of	18	\$1,340
1904.29(b)(1)	Log and summary of occupational injuries and illnesses: OSHA 300 log	17	\$280
1910.157(c)(1)	Portable fire extinguishers: Provision, accessibility	17	\$296
1910.215(b)(9)	Abrasive wheel machinery: Guarding	17	\$991

GENERAL INFORMATION

CVSA DATA SHOWS IMPROVEMENT

Speeding, failing to obey traffic control devices, and failing to use a seat belt continue to be a top concern, the Commercial Vehicle Safety Alliance (CVSA) says "drivers are slowing down and taking heed of the message that driving fast and cutting it close around commercial vehicles is a deadly combination."

The CVSA recently released the results of its 2011 Operation Safe Driver program, held last October. The week-long campaign resulted in 35,000 commercial motor vehicle (CMV) inspections and almost 9,000 non-CMV traffic stops.

Among the CMV inspections, 4.7 percent resulted in the driver being placed out-of-service and 24.6 percent of the Level I Inspections resulted in the vehicle(s) being placed out-of-service.

2011 Operation Safe Driver

Subject	CMV's	Passenger Cars
Vehicles stopped	34,725	8,770
Warnings issued:		
● Speeding	16.8%	40.5%
● Failure to obey traffic control devices	5.9%	3.2%
● Failure to wear seat belt	3%	1.9%
● Other	74.3%	54.4%
Citations issued:		
● Speeding	12.8%	40.6%
● Failure to obey traffic control devices	2.9%	1.9%
● Failure to wear seat belt	3.7%	7%
● Other	80.6%	50.5%

For CMV drivers, there were:

- 0.81 violations per roadside inspection,
- 0.08 out-of-service violations per inspection, and
- 0.07 citations per inspection.

For CMV's, there were:

- 4.45 violations per inspection (vs. 1.04 in 2010),
- 0.23 out-of-service violations per inspection, and
- 0.07 citations per roadside inspection.

MY TURN

"THE NEW NORMAL" (by Larry Dannemiller)

The old benchmarks of American prosperity are disintegrating before us. If you invested your wealth in stock funds 10 years ago, and let it ride, you are about where you started, minus 10 years earning power on that money. If you bought into the American dream of home ownership 5 years ago, it is likely, for most people, your largest investment has declined by at least 20%.

Our country's deficit has grown by 50% in the last 4 years, and depending on the nature of the event and audience where they are speaking, our politicians may lecture us that prior federal spending and borrowing have produced this mess, and then at the next stop, to a more liberal audience, tell us that even more spending and borrowing will solve the problem. On May 25, 2011, our public debt was \$14.3 trillion - on May 25, 2012, our public debt was \$15.7 trillion,...a increase in one year of \$1.4 trillion. In 1962, our entire public debt was \$100 billion. By 1976, the 200th anniversary of our nation, the "war on poverty" series of social programs and Medicare had pumped the debt to over one trillion dollars. It has increased fifteen-fold in the past 36 years. Our politicians are no longer even pretending to cut the deficit. Now, with more debt each year than the total first 200, they are just pretending to decrease the growth rate.

Waste in government has always been an almost comical topic (almost), but a billion here a few million here add up. A few of many examples, in no particular order:

1. The federal government made at least **\$72 billion** in improper payments in 2010.
2. Health care fraud is estimated to cost taxpayers more than **\$60 billion** annually (not included in 1.)
3. Washington spends **\$25 billion** annually maintaining unused or vacant federal properties.
4. The refusal of many federal employees to fly coach costs taxpayers **\$146 million**

annually in flight upgrades.

5. Washington will spend **\$2.6 million** training Chinese prostitutes to drink more responsibly on the job (nobody likes drunk prostitutes).
6. Examples from multiple Government Accountability Office (GAO) reports of wasteful duplication include **342** economic development programs; **130** programs serving the disabled; **130** programs serving at-risk youth; **90** early childhood development programs; **75** programs funding international education, cultural, and training exchange activities; and **72** safe water programs.

We have reached the point, God help us, that we are now having a problem deciding each year how much more of our children's and their children's money we are going to spend on ourselves. We are so politically polarized we are unable to reduce any spending and/or raise taxes or restructure bankrupting social programs, because what our representatives fear most is offending some constituency. Personally, I would have no problem paying higher taxes if it were going toward reducing the deficit and not another idiot social or green energy program. The U.S. Senate has refused to pass a legally required budget for over three years, and, except for defense and social security, nobody really knows where the money goes. Where did the stimulus go (\$786 billion),...public sector unions, Solyndra and the like? Nobody has to justify spending anymore because there is always a "need". God forbid we don't satisfy every need!

There is no more pretense *This is the new normal*. How long do you think it can last? Our trajectory is similar to Greece. The difference is that if our economy fails it is too large for any other country or group to bail out.

If there is someone who doesn't believe this is the most important national election in their lives, just remember that public debt has been the demise of *every* democracy formed since the beginning of civilization.



DUMP TRUCK CARRIERS CONFERENCE

MEMBERSHIP LISTING

CARRIER MEMBERS

Mr. Aaron Jones
AARON JONES TRUCKING
P. O. Box 186
Spring Valley, Ohio 45370
(937) 488-2075

Mr. Leroy J. Robbins
AUGUST ROBBEN SONS, INC.
6500 Bender Road
Cincinnati, Ohio 45233
(513) 941-7500

Mr. Abu Bundu
BAKARR ENTERPRISES, INC.
935 Wake Drive
Westerville, Ohio 43082-8539
(614) 898-7214

Mr. Jim Knisely
BERNER TRUCKING, INC.
P. O. Box 660
Dover, Ohio 44622
(330) 343-5812

Mr. Thomas Boyd
BOYD BROS., INC.
Box 118
Fredericktown, Ohio 43019
(614) 694-5916

Mr. Bill Berger
CTS, INC.
P. O. Box 870
Mt. Vernon, Ohio 43050-0870
(740) 397-9191

Mr. Daniel Zarlenga
C-Z TRUCKING CO.
9495 Harvard Boulevard
Youngstown, Ohio 44514
(330) 758-2313

Mr. Christopher A. Scala
CRYSTAL SPRINGS
MATERIALS, INC.
9500 Forty Corners Road NW
Massillon, Ohio 44647
(330) 494-6455

Mr. Gary Nye
FA NYE & SON'S
ENTERPRISES
P. O. Box 398
Bettsville, Ohio 44815
(419) 986-5400

Mr. Shawn Henderson
HENDERSON TRUCKING, INC.
124 Henderson Court
Delaware, Ohio 43015
(740) 369-6100

Mr. Bari Henning
HENNING TRUCKING
3618 Bootjack Road
Williamsburg, Ohio 45176
(513) 724-2994

Mr. Todd Hiney
HINEY TRUCKING LTD.
1101 S. Columbus Street
Xenia, Ohio 45385
(937) 372-9960

Mr. John Grattino
J.T. TRUCKING, INC.
19070 Haskins Road
Chagrin Falls, Ohio 44023-605
(216) 663-7002

Mr. Joe Stenger
J.W. STENGER TRUCKING, INC.
61485 Professional Drive
Barnesville, Ohio 43713
(800) 837-8364

Mr. Dick Jones, President
THE JONES FUEL CO.
350 Frank Road
Columbus, Ohio 43207
(614) 443-4611

Mr. Richard E. Jones, Jr.
JONES TRANSPORTATION CO.
2610 Crescentville Road
West Chester, Ohio 45069
(513) 326-6000

Mr. Bill Kerr
KERR TRUCKING, INC.
705 State Route 302
Ashland, Ohio 44805
(419) 289-9275

Mr. Bryan Monesi
MONESI TRUCKING &
EQUIPMENT REPAIR, INC.
1715 Atlas Street
Columbus, Ohio 43228-9648
(614) 921-9183



DUMP TRUCK CARRIERS CONFERENCE

MEMBERSHIP LISTING

CARRIER MEMBERS

Mr. Tim Patrick
PATRICK EXCAVATING, INC.
5839 S.R. 5
Ravenna, Ohio 44266
(330) 296-7706

Mr. Rick Kuntz
RICK KUNTZ TRUCKING, INC.
9056 State Route 88
Winham, Ohio 44288
(330) 296-9311

Mrs. Suzette Hamlin
VIKING TRUCKING, INC.
Box 25, 19-929 Rd. T
Ridgeville Corners, Ohio 43555
(419) 267-3319

Mr. Paul Adelman
PAUL ADELMAN TRUCKING
P. O. Box 370
1250 Hartville Road
Randolph, Ohio 44265
(330) 325-7470

Mr. Ben Morabito, Jr.
S.B. MORABITO TRUCKING
COMPANY
3560 East 55th Street
Cleveland, Ohio 44105
(216) 441-3070

Mr. Dan Vorst
VORST PAVING & LEASING,
INC.
14373 Road 23M
Cloverdale, Ohio 45827
(419) 453-3166

Mr. Mark Carrocce
R & J TRUCKING
8063 Southern Boulevard
P. O. Box 9454
Youngstown, Ohio 44513
(330) 758-0841

Mr. Brad Smith
SMITH MATERIAL SUPPLY,
INC.
1571 N. Main Street
Marion, Ohio 43302
(740) 382-4148

Mr. Michael D. Hodson
W.A. HODSON, INC.
P. O. Box 412
Leesburg, Ohio 45135
(937) 780-4272

Mr. Dave Jackson
REDBANK TRANSPORT, INC.
910 U.S. Route 50
Milford, Ohio 45150
(513) 831-5491

Mr. Kim Testa
TESTA TRUCKING, INC.
4381 Newhouse Road
Ostrander, Ohio 43061
(740) 666-1920

ASSOCIATE MEMBERS

Legal Services:

John Alden, Esquire
ALDEN LAW
One East Livingston Avenue
Columbus, Ohio 43215-5700
(614) 221-1306

Legal Services:

Mr. L. Christopher Bobbit
SANBORN, BRANDON, DUVALL
& BOBBITT CO., L.P.A.
2515 West Granville Road
Columbus, Ohio 43235
(614) 889-2531

Medical Services:

Ms. Lorri Smith
INTEGRITY TESTING &
SAFETY ADMINISTRATORS
6015 19 Mile Road
Sterling Heights, Michigan 48314