



DUMP TRUCK CARRIERS CONFERENCE

NEWSLETTER

VOL. 58

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NEVER TRIED THIS

Dear Dad;

It is with great regret and sorrow that I'm writing this letter, but since I have been gone for a week, I know you must be worried. I had to elope with my new girlfriend because I wanted to avoid a scene with Mom and you.

I have been finding real passion with Stacy and she is so nice. I hope you can be happy for me.

But I thought you may not approve of her because of all her piercing, tattoos, tight motorcycle clothes and the fact that she is much older than I am. But it's not only the passion...Dad she's pregnant. Stacy says it is a blessing and we will be very happy.

She owns a trailer in the woods and has a stack of firewood for the whole winter. We share a dream of having many more children.

Stacy has opened my eyes to the fact that marijuana and other drugs don't really hurt anyone. We'll be growing it for ourselves and trading it with Stacy's friends that live nearby for cocaine and ecstasy.

In the meantime, I hope you will join us in prayer that science will find a cure for AIDS so Stacy can get better. She deserves it.

Don't worry Dad. I'm 16, have been around, and I know how to take care of myself.

Someday I'm sure that we will be back to visit so that you can get to know your grandchildren.

With Love, Your son John →

P.S. - Dad, none of the above is true. I'm over at Tommy's house. I just wanted to remind you that there are worse things in life than the Report Card that's in my center desk drawer. Please call me when it's safe to come home.

DID YOU KNOW?

Q: Do operators of motorized cranes and vehicles used to pump cement at construction sites have to meet the testing and licensing requirements of the CDL program?

A: Yes, because such vehicles are designed to be operated on the public highways and therefore do not qualify as off-road construction equipment. The fact that these vehicles are only driven for limited distances, at less than normal highway speeds and/or incidental to their primary function does not exempt the operators from the CDL requirements.

QUOTABLE

"Why do they lock gas station bathrooms? Are they afraid someone will clean them?"

- LBD

GENERAL INFORMATION

OUT-OF-SERVICE RATES CLIMB DURING ROADCHECK 2012

The overall number of commercial vehicles and drivers placed out-of-service (OOS) during the 2012 Roadcheck inspection event was a bit higher than last year, a fact that may come as no surprise given that Roadcheck 2011 saw record-low OOS rates.

Overall, 20.9 percent of vehicles and 4.6 percent of drivers were placed out-of-service during the annual June event, compared with 18.3 percent and 4.2 percent in 2011, respectively.

Inspectors conducted a record 74,072 truck and bus inspections.

were removed from the road and 128 companies faced enforcement actions earlier this year during a drug and alcohol sweep conducted by the Federal Motor Carrier Safety Administration (FMCSA).

"Our message is clear - we will not allow commercial bus and truck drivers operating under the influence of drugs and alcohol to stay on the road," said U.S. transportation Secretary Ray LaHood.

A primary goal of the two-week sweep was to catch drivers who jump from carrier to carrier to evade federal drug and alcohol testing and reporting requirements.

"Removing these dangerous drivers from the roads helps save lives and sends a strong signal that we will not tolerate negligent commercial drivers and companies that violate federal alcohol and drug safety standards," said FMCSA Administrator Anne S. Ferro.

"REEFER MADNESS" CLARIFIED

Just in case the subject has been brought up, the US DOT's Office of Drug and Alcohol Policy and Compliance issued a notice responding to the states of Colorado and Washington electoral approval of legalizing the recreational use of marijuana for recreational purposes. The Office said that the state initiatives will have no bearing on the DOT's regulated drug testing program.

Medical Review Officers will not verify a drug test as negative based upon learning that the employee used pot recreationally. Go to <http://tiny.cc/23puow> for the ODAPC's chapter and verse.

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FMCSA STRIKE FORCE REMOVES 287 DRIVERS FROM THE ROAD

Almost 290 commercial bus and truck drivers

GENERAL INFORMATION

CMV DRIVER SENTENCED FOR LYING ABOUT MEDICAL DISABILITY

A commercial driver from Virginia has been sentenced to 10 months in jail and 3 years of supervised release for stealing government disability payments after lying about his medical condition during his DOT medical exam.

He was also ordered to repay about \$130,000 in stolen government funds.

An investigation revealed that from 2002 to 2011, Risdan Richardson, employed as a driver for a Virginia-based interstate trucking company, failed to report that he had a medical condition on his DOT medical examination report, as required by federal regulations. If reported, his medical conditions would have made him ineligible to be employed as a commercial motor vehicle driver.

During the same period, he reported to the Social Security Administration that he was unable to work due to a back disorder. Because Richardson was on Social Security Disability Insurance benefits, he was prohibited from working more than 80 hours a month or earning more than \$1,000 per month. Their records show that between 2002 and 2010, Richardson earned almost \$1.4 million (What?) from his work as a truck driver and worked more than 80 hours per month.

To conceal his work activity, Richardson had his driver wages made payable to his wife's trucking company.

As part of his plea, Richardson admitted that he improperly received disability payments and gave false information on DOT required documents.

ARE PRE-TRIP INSPECTION RULES REDUNDANT?

The Federal Motor Carrier Safety

Administration (FMCSA) will soon be gathering public input on whether certain pre-trip inspection requirements for commercial motor vehicles are redundant and can be eliminated.

The agency says it hopes to issue a proposal in May 2013 to consider whether its pre-trip inspection rules "include obsolete or redundant requirements that impose unnecessary burdens on the industry," the agency wrote. The agency says the proposal will be "economically significant" for the industry.

Under the Federal Motor Carrier Safety Regulations, both Sections 392.7 and 396.13 state that the driver must not drive until he or she is satisfied that the vehicle is in safe operating condition.

The proposed rule is in response to Executive Order 13563, "Improving Regulation and Regulatory Review," which President Obama issued in January 2011. The order calls for all government agencies to review existing regulations and decide if they need to be "modified, streamlined, expanded, or repealed" to make them "more effective or less burdensome" in achieving their goals.

To help the FMCSA comply with that order, the American Trucking Associations (ATA) provided a list of obsolete regulations to the agency. On the list were the pre-trip inspection requirements in Sec. 392.7, which the ATA says duplicate those in Sec. 396.13.

The FMCSA has already agreed to delete another rule that was on the ATA's list; a requirement under Sec. 383.31 that drivers notify their state licensing agency of any out-of-state convictions.

GENERAL INFORMATION

BRAKE ADJUSTMENT STANDARD

Responding to a request from law enforcement officials, the Federal Motor Carrier Safety Administration (FMCSA) has issued a new rule amending the brake readjustment limits, clarifying how they are applied, and correcting an error in the way a manufacturing standard was cross-referenced.

The changes add consistency to the regulations and their enforcement, and clarify that brakes will be in violation if their pushrod stroke exceeds the adjustment limit.

In early 2007, the Commercial Vehicle Safety Alliance (CVSA) asked for changes to the brake adjustment limits in 49 CFR Sec. 393.47(e), arguing that they were inconsistent with those found in the annual inspection standards, the Society of Automotive Engineers' (SAE) standards (which are incorporated into the regulations), and the out-of-service (OOS) standards.

For example, a T-30-L3 chamber has a readjustment limit of 2.5 inches under the SAE, OOS, and annual inspection standards, but 2.4 inches under the old regulations. The result was that a brake could pass inspection but still violate the rules.

The FMCSA acknowledged that the differences cause confusion and agreed to the recommended changes to Sec. 393.47.

Now, instead of referencing "80 percent of the rated stroke" as the readjustment limit, the regulation includes tables showing the actual readjustment limit, matching the tables found in the annual inspection criteria in Appendix G.

The Appendix G standards were also updated to include readjustment limits for long-stroke brake chambers.

Change Of Plans

Although the FMCSA initially rejected the idea, it also amended the regulations to specify that pushrod stroke cannot be greater than the value specified in the readjustment tables. Previously, Sec. 393.47 said a brake at the readjustment limit would be in violation, while Appendix G allowed the stroke to be up to 0.25 inches past the readjustment limit and still pass the annual inspection.

"Referencing a specific length of stroke in excess of the adjustment limits for any one, or two brakes especially, may misguide maintenance personnel into not adjusting brakes that should be adjusted," the CVSA noted.

The regulations and annual inspection standards are now consistent on this issue.

Other changes include:

- A revision to Sec. 393.53, *Automatic brake adjusters and brake adjustment indicators*, to reference the manufacturing standards applicable to trailers; and
- The addition of readjustment limits for Bendix DD-3 brake chambers.

The new rule appeared in the *Federal Register* on August 6, 2012, and took effect on September 5, 2012.

GENERAL INFORMATION

FMCSA TIGHTENS REINS ON NEW ENTRANTS WHO FAIL AUDITS

A new government policy shortens the amount of time new-entrant motor carriers have to respond to demands that they fix safety problems.

Under the new policy from the Federal Motor Carrier Safety Administration (FMCSA), a motor carrier that receives notice that it has failed its new-entrant safety audit now has only 15 days in which to send evidence that it fixed its safety problems. A carrier that receives an "expedited action" notice has only 10 days to submit its evidence.

Carriers that don't submit evidence of corrective action within those time periods could have their registration revoked and be placed out-of-service.

Although federal regulations give new carriers between 30 and 60 days to submit evidence that they have fixed their safety problems after a failed audit, the FMCSA also needs to complete its review of the carriers' corrective actions within those same time periods. The agency found that some carriers were waiting until the final deadline to reply, leaving the agency with no time for its review.

The FMCSA's "New Entrant Safety Assurance Program" is regulated under 49 CFR Part 385, Subpart D. Appendix A to Part 385 explains the criteria for passing a new-entrant audit, Sec. 385.321 lists 16 violations that result in automatic failure of the audit, and Sec. 385.308 lists 7 violations that result in "expedited action."

Under the new policy, if the FMCSA

receives evidence of corrective action after the new 10- or 15-day deadlines, it won't guarantee that the evidence will be considered. If the corrective action period expires before the agency makes a decision, the carrier's registration will be revoked, at least until the FMCSA deems the corrective action plan to be acceptable.

The change in policy took effect on July 20, 2012, for expedited action notices and August 20, 2012, for audit failure notices.

OSHA ANNOUNCES PILOT PROGRAM

The Occupational Safety and Health Administration announced earlier this month that it was launching an alternative dispute resolution (ADR) pilot program for complaints filed with OSHA's Whistleblower Protection Program. ADR can assist complainants and employers in resolving their disputes in a cooperative and voluntary manner. The program will be implemented in two OSHA regions and offer two voluntary methods of ADR: early resolution and mediation.

When a whistleblower complaint is filed with OSHA in one of the pilot regions, the parties will be notified of their ADR options and may work through an OSHA regional ADR coordinator to use these methods. The two OSHA regions that will participate in the pilot are headquartered in Chicago (which handles all whistleblower investigations filed in Ohio and five other states) and San Francisco. OSHA administers the whistleblower provisions of 22 statutes and receives about 2,500 complaints annually.

GENERAL INFORMATION

MEDICAL CERTIFICATES VERIFIED

The National Registry of Certified Medical Examiners released a notice this week about medical certifications. The notice states that federal safety investigators and roadside enforcement officers have started conducting random spot checks to validate driver medical certificates.

They are contacting a driver's medical examiner using the phone number on the certificate and are asking the medical examiner's office to confirm that his or her records match what's on the medical certificate. The information being confirmed is driver's name, date of birth, date of issuance of the certificate, and any restrictions on the certificate. The stated purpose of these random checks is to eliminate faked medical certificates, "not to evaluate the driver's medical fitness."

WHISTLEBLOWER CASE COST OHIO TRUCKING COMPANY \$612,000

An Ohio-based trucking company has been ordered to pay \$612,205 after firing two drivers who refused to violate motor carrier safety regulations.

The company was ordered to reinstate the drivers and pay back wages and attorney fees over one year ago but has so far refused to comply, according to the U.S. Department of Labor, which enforces federal "whistleblower" laws.

In response, the agency recently filed a lawsuit in federal court seeking to enforce the decision. The penalty includes back wages of \$341,894 for one driver and \$181,468 for the other, as well as \$88,843 in attorney fees.

According to the Occupational Safety and Health Administration (OSHA), the drivers were fired for trying to protect themselves and the motoring public. They were dismissed after one was stopped by the police and cited for

numerous safety violations, including operating without a license or logbook, having an overweight trailer, and failing to mark the vehicle. The driver who was cited told the other driver, and both refused to continue driving until these issues were resolved.

Under federal law, employers are prohibited from retaliating against employees who raise various protected concerns or provide protected information to the employer or the government. More information is available online at www.whistleblowers.gov.

NEW LAW HELPS VETERANS OBTAIN CDL'S

Military personnel can now obtain commercial driver's licenses (CDL's) from the states where they're stationed rather than only from their home states, thanks to a new federal law.

The *Military Commercial Driver's License Act of 2012* is expected to ease the transition of recent veterans into jobs as commercial truck drivers.

Previously, states were prohibited from granting CDL's to most non-residents, including members of the military who were temporarily stationed there but whose permanent residence was in another state.

The new law applies to members of the active duty military, military reserves, National Guard, active duty U.S. Coast Guard, or Coast Guard Auxiliary.

"Veterans with experience driving trucks in the military are highly sought after," said American Trucking Associations President Bill Graves. "Making it easier for veterans to move into these jobs is a good thing for the military, for the veterans themselves, and for our industry."

GENERAL INFORMATION

CALCULATING FOLLOWING DISTANCE

(From Great West Casualty's Safety Talk)

Proper following distance is the count of space a trailing vehicle needs to be able to stop in time to prevent rear-ending the vehicle in front of them. Some drivers try to gauge their following distance by counting the broken whitelines painted on the highway.

This can be problematic because when asked how long these lines are, the answers can range anywhere from 16 feet to 6 inches. Rarely is there agreement because each of us perceives distance differently. In fact, drivers are usually shocked to hear that according to the *Manual on Uniform Traffic Control Devices*, the broken lines on the highway are required to be 10 feet long with 30-foot gaps in between.

Because of this, the most reliable way to determine proper following distance is to count seconds instead of feet. The CDL standard is to keep a following distance of one second for every 10 feet of truck if traveling 40 mph or less. And if traveling faster than this, add another second.

Perhaps an even simpler method is to adopt the "six second rule." Regardless of speed or vehicle size, using six seconds as a minimum following distance will be just as reliable. All the driver has to do is pick a fixed object on the side of the road and when the vehicle in front passes it, start counting "one-one thousand, two-one thousand" until you pass that fixed object.

If fewer than six seconds has passed, you are too close and won't be able to prevent a rear-end crash. Note, six seconds is the minimum for ideal conditions and includes the average stopping distance for a four-wheeler if it is the vehicle in front. Also, be sure to add one

second for every additional hazard present, such as fog, rain, glare, etc.

CSA SCORING SYSTEM IS FLAWED

High scores in the seven CSA scoring categories are supposed to indicate a higher crash risk, the American Transportation Research Institute (ATRI) found that is not always the case.

For the Driver Fitness BASIC, researchers found that the higher a motor carrier's score, the lower the carrier's crash risk. In fact, carriers with a score above the "Alert" threshold in Driver Fitness have lower crash rates than carriers with scores below the threshold

PROPOSED RULES LET FMCSA REVOKE OPERATING AUTHORITY

The rule would only target a small number of carriers that engage in the most "egregious" kinds of non-compliance, the agency says. These carriers often ignore the rules, get placed out-of-service, and then continue operating commercial vehicles under a new registration.

The proposed rule will enable the FMCSA to suspend or revoke the operating authority registration of motor carriers whose officers have shown "egregious disregard" for compliance, either through their own actions or the actions of those who work for them (including contractors and consultants).

The rule would also target "chameleon" or "reincarnated" carriers that try to mask or otherwise conceal non-compliance by submitting new applications for registration - often under a different name - after being placed out-of-service.



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