

# TRANSTRENDS

THE TRANSLAW GROUP, INC.

EDITOR: JAMES M. BURNS



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## **USEFUL OR USELESS INFORMATION, YOU DECIDE**

The transportation industry is full of numbers and statistics. Keeping track of them can be difficult. That is why the Bureau of Transportation Statistics has released the 2015 Pocket Guide to Transportation.

Information compiled in the guide derives from the bureau's massive online document culled of national transportation statistics. With many studies and surveys done periodically, some stats are only as recent as 2009.

Put together in September 2014, the most recent numbers come from 2013. Click on the link below to view the entire guide and immerse yourself in this wealth of information which is either useful or useless depending upon your world view of transportation!

[http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/publications/pocket\\_guide\\_to\\_transportation/2015](http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/publications/pocket_guide_to_transportation/2015)

**NEW CONGRESS, NEW DEBATE OVER TAXES AND HIGHWAY FUNDING**



The 114th Congress is now in session, and there is already discussion brewing about long-term funding for highways, bridges and transit. Sen. John Thune, R-S.D., the incoming chairman of the Senate Commerce, Science and Transportation Committee, says he has not ruled out a discussion of increasing fuel taxes to pay for transportation.

Federal taxes on gasoline and diesel have not increased since 1993. Inflation, higher construction costs, a lull in vehicle miles traveled, and an ever-increasing attention paid to fuel economy have contributed to a declining balance in the Highway Trust Fund. Congress has transferred billions from general treasury funds to keep the highway account solvent in recent years, but lawmakers are searching for a replacement formula.

In 2013, U.S. Rep. Bill Shuster, R-Pa., who will continue to be chairman of the House Transportation and Infrastructure Committee, was taking the all-options approach, but he has more recently gone on record to say a fuel tax increase would be off the table for the House. The new Congress does not have a lot of time at hand to pass at least a short-term transportation-funding bill. An extended version of the 2012 highway bill known as MAP-21 expires in May.

**TENNESSEE 'CHAMELEON CARRIER' JAILED FOR IGNORING IMMINENT HAZARD ORDER**



An owner-operator from Tennessee has been sentenced after being found guilty of violating an imminent hazard out-of-service order. Dorian Ayache, owner-operator of Three Angels Farms in Lebanon, Tenn., was sentenced to three months in jail, 12 months supervised release, and a \$5,000 fine. He was also ordered not to engage in commercial trucking.

Back in January 2012, a Three Angels Farm driver drove his truck carrying 38 horses off the side of the road, causing the death of three horses. The driver claimed that he had only received 30

minutes of rest within the past 24 hours after working all night. **Remember, drivers will always tell the truth!**

Six months later, another crash involving a Three Angels Farm truck occurred, killing one horse. The driver did not have a valid CDL. Another driver in the truck had a suspended CDL.

As a result, the Federal Motor Carrier Safety Administration shut down the livestock carrier. Two months later, horse transporter Terri's Farms was issued an imminent hazard order for "operating the same vehicles, and maintaining the same operational and safety management structure as former horse transporter Three Angels Farms."

On Sept. 12, 2013, Ayache was indicted on charges that he violated the imminent hazard order. Ayache was accused of selling or transferring Three Angels Farms' trucks despite the order from the FMCSA. In August 2014, Ayache and a woman named Theresa Vincent, owner and operator of Terri's Farms, pleaded guilty to violating an imminent hazard order. Vincent was placed on probation for one year last November.

### **GEORGIA MAN PLEADS GUILTY FOR HIS ROLE IN 'CHAMELEON' CARRIER SCHEME ONCE AN ENTREPRENEUR ALWAYS AN ENTREPRENEUR**



**DOES THIS LOOK LIKE A DISPATCH OFFICE?**

When Lewis Trucking Co. was shut down several years ago and its owner sent to jail, he started up two more, running them from prison. According to a press release from the U.S. Department of Transportation's Office of Inspector General, Devasko Lewis did that with the help of his friend, Lacey Lewis.

In January, Lacey Lewis pleaded guilty to conspiracy to violate an imminent hazard

out-of-service order issued by the Federal Motor Carrier Safety Administration. Lewis is former owner of Eagle Transport and Eagle Tran, and was charged in May 2013 of being part of the Devasko Lewis reincarnated carrier scheme.

In October 2008, the Office of Inspector General launched an investigation on Devasko Lewis after his Georgia-based Lewis Trucking Co. was involved in a fatal crash in Alabama, according to the press release. One of Devasko Lewis' trucks crashed into a van transporting state prisoners, killing six prisoners and one corrections employee.

FMCSA ordered Lewis Trucking Co. to cease all operations after finding “serious violations” in a compliance review. Following the order, Devasko Lewis started DDL Transport LLC, which also received an order from FMCSA. Lewis was sentenced to 90 days in prison and 12 months supervised release in May 2012.

Before being sentenced, Devasko Lewis obtained DOT numbers for Eagle Transport and Eagle Trans using the identity of friends, including Lacey Lewis. After reporting to prison, Devasko Lewis continued to run the two companies with the help of Lacey Lewis and others.

## **REQUIREMENT TO HAVE MED CARD IN POSSESSION EXPIRES**

### **...JUST ISN'T THAT SIMPLE**



While truckers may be happy that they are now no longer required to carry their medical cards with them on the road, it might be a good idea to hang onto it anyway.

In December 2008, the Federal Motor Carrier Safety Administration issued a final rule that requires drivers to present proof of medical certification to their state driver's licensing agency each time they get their medical card renewed. The states are required to enter the certification into the Commercial Drivers License Information System – dubbed CDLIS – for law enforcement to access on the roadside.

That regulation was supposed to go into effect in 2011. But, there were states that weren't ready to enter the certification information into CDLIS. Therefore, FMCSA delayed the requirement that states enter the information until Jan. 30, 2015, even though truckers still had to present their cards to the DMV.

Now that the state reporting requirement has kicked in, truckers are only required to retain their medical card for 15 days to give the states time to enter the certification into the mega database. It might be a good idea to hang onto your card since many states are way behind in updating the registry.

The Commercial Vehicle Safety Alliance issued an inspection bulletin in late January advising law enforcement of the change to the regulation and what to do in various situations and when to issue citations. One scenario in particular could prove problematic for compliant truckers who have presented their proof of medical certification to their home state licensing agency, but somehow the state drops the ball and doesn't get it entered into CDLIS.

In the case that the CDL is valid, but information related to the current medical certification doesn't show up, CVSA advises law enforcement not to issue a violation if the driver has a card and it's

within the 15 days after the card was issued. But the driver will be referred back to their home state licensing agency and law enforcement is to record and document it in the inspection report.

CVSA does not advise law enforcement on what to do if the card is more than 15 days old.

The following list is the rest of the scenarios CVSA advised roadside enforcement on what to do:

- CDL is valid, medical indicator shows medical information on file. No violation.
- CDL is valid, medical indicator shows no medical information on file, no medical certificate in driver's possession. Cite §391.41(a)(1)
- CDL disqualified, no medical certificate in driver's possession. Driver OOS, cite §391.15 if driver is operating a commercial motor vehicle (CMV) requiring a CDL. Cite §391.41(a)(1) if driver is operating a non-CDL vehicle.
- CDL disqualified and downgraded, no medical certificate in driver's possession. Driver OOS, cite §383.23(a)(2) and §391.15 if driver is operating a CMV requiring a CDL. Cite §391.41(a)(1) if driver is operating a non-CDL vehicle.
- CDL downgraded, no medical certificate in driver's possession. Driver OOS, cite §383.23(a)(2) if driver is operating a CMV requiring a CDL. Cite §391.41(a)(1) if driver is operating a non-CDL vehicle.
- CDL disqualified, medical certificate in driver's possession. Driver OOS, cite §391.15 if driver is operating a CMV requiring a CDL. No violation if driver is operating a non-CDL vehicle.
- CDL disqualified and downgraded, medical certificate in driver's possession. Driver OOS, cite §383.23(a)(2) and §391.15 if driver is operating a CMV requiring a CDL. No violation if driver is operating a non-CDL vehicle.
- CDL downgraded, medical certificate in driver's possession. Driver OOS, cite §383.23(a)(2) if driver is operating a CMV requiring a CDL. No violation if driver is operating a non-CDL vehicle.

### **WHAT A MESS**



Dozens of cars and trucks were involved in a pileup on I 94 in Indiana, a study found no clear way to assess blame in such accidents. TRANSLAW thought this picture would be of interest with the recent spate of snowstorms.

Now is a good time to remind drivers to be aware of others on the road.

Four-wheel vehicle drivers simply are not aware that they cannot stop on a dime. They race along the highway only to find that their vehicles will slide or skid just like a two wheel drive vehicle.

This photo reminds TRANSLAW of the movie ANIMAL HOUSE when everyone followed the marching band down a dead-end alley.

## **REGULATORY INITIATIVES ON THE HORIZON.**



### **ELECTRONIC LOGGING DEVICES**

Expected to be announced in September/October are the electronic logging device regulations that will affect the motor carrier industry. . Electronic logging devices will eliminate the need for paper logbooks and improve both the accuracy and accountability of driver time records. Many carriers will be opposed to the electronic logging device regulations for obvious reasons, cost being one of them, and it is a sure bet that the rules will be challenged in court.

### **OFF-SITE SAFETY AUDITS**

The Federal Motor Carrier Safety Administration also plans to begin off-site compliance reviews of motor carriers and will roll out new investigative software to identify unsafe operators. One can only assume that this process will be fraught with inconsistencies. It is not clear as to how they will conduct the audits on an off-site basis but TRANSLAW is confident that the FEDS will find a way.

### **UNIFIED REGISTRATION SYSTEM**

The new Unified Registration System, which will streamline the registration process by combining 16 forms into a single electronic form is going to give the agency more timely information and more quickly identify reincarnated carriers, referring to those who are forced out of business, but start up again under a different name. The Unified Registration System will have to be updated on a regular basis. TRANSLAW can't even identify the 16 forms the FEDS are talking about putting into one giant on-line filing, however, safe to assume it will be dramatic.

There is also talk about an "examination" component to the filing where new entrants will be required to pass some type of exam which has not been announced as of this date.

## **DRIVER TRAINING**

The Federal Motor Carrier Safety Administration also hopes to finally accomplish its longtime pursuit of minimum training requirements for new truck drivers with a negotiated proposed rule. The agency has est. a rulemaking committee of stakeholders to provide consensus recommendations for new driver training as well as a proposal by the end of 2015.

## **34 HOUR RESTART**

The Federal Motor Carrier Safety Administration has two research projects that will be priorities in 2015. A driver detention study and a congressionally mandated study of the controversial hours of service restart rule that has been suspended by Congress for a year. The agency has been called on to compare fatigue and safety performance levels of drivers who take two nighttime rest periods vs. drivers who use less than two nighttime rest periods. The agency expects to complete the hours of service restart study by December 2015. Doubt that will happen!

## **DRUG TESTING RATE REMAINS AT 50%**



Although the industry expected the drug testing random rate to be less than 50%. The federal motor carrier safety administration has not changed its position in the current rules, which require a 50% testing rate will remain in effect.

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