

TRANSTRENDS

THE TRANSLAW GROUP, INC.

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DRUG, ALCOHOL CLEARINGHOUSE PROPOSAL LOOPHOLES CLOSE TO FIXED



FMCSA has created a rule that would place all drivers who have failed a drug/alcohol test in a nation-wide database. This proposal has great intentions; however, several motor carriers, trade associations, and safety interest groups have found loopholes that end up protecting those who have tested positive. There is a provision in the federal rule that prohibits companies from disclosing the names of those who have failed a drug/alcohol test.

The majority stands behind the clearinghouse concept and many have made comments in an effort to improve the idea. The Commercial Vehicle Safety Alliance (CVSA) is a group made up of several law enforcement agencies that inspects trucks and buses to ensure they adhere to the safety standards. CVSA commented on the clearinghouse proposal by first stating that the drivers who fail the drug/alcohol tests will be able to evade the consequences of their actions due to the fact that their names cannot be revealed. CVSA believes a possible solution would be that, "...FMCSA should require reporting of these violations to the clearinghouse; so that subsequent employers can more certainly learn of them."

JUDGE RULES FLASHING OF LIGHTS AS FREE SPEECH, SAYS TICKET IS UNCONSTITUTIONAL



This past fall, Chris Hill was driving his logging truck on the highway in Oregon and quickly noticed a sheriff's deputy car behind him.

Simultaneously passing a fellow trucker, he flashed his high beams at the UPS driver to signal that there was a patrol car behind him.

Soon after, Hill was being pulled over by the sheriff's deputy and was issued a \$260 ticket. The officer deemed

Hill's use of his headlights as improper. Fuming due to the fact that his insurance rate would increase, Hill brought the ticket in front of a judge to fight it.

He concluded that the cop did not know for sure why Hill flashed his lights and was able to prove that the use of his lights coincides with his freedom of speech, as it is a form of communication on the road.

Hill researched the law and found nothing that prohibits drivers from using their headlights as a form of communication, whether it is a speed trap warning or a simple greeting. In the end, the Judge ruled the ticket in violation of the Oregon Constitution and Hill won his case.

DRIVER PAY RAISES FOR TWO TRUCKLOAD COMPANIES



In response to the driver shortage, Big G Express and Hornady Transportation have both decided to raise the pay for their drivers by 5.8%, the highest rate increase since the last driver shortage. Drivers at Big G will receive increases of 2 cents to 4 cents per-mile. Drivers with one to three years' experience will now be making 36 cents per mile, 38 cents for three to five years and 40 cents for more than five years. The top rate is set at 46 cents per mile. These increases are in addition to

employee stock ownership, as well as bonus and benefit programs.

As for Hornady Transportation, pay is increasing by 2 cents per mile for all linehaul and flatbed drivers. Hornady's starting pay is also being increased from 40 cents to 45 cents based on experience and the top rate will be 47 cents per mile. The president of the aspiring company stated, "We are experiencing a great demand for our services as the market improves. We are extremely excited about the new pay and the increasing possibilities we have available for our drivers."

NJ LAWMAKERS TEAM UP TO DEFEAT PLAN TO PRIVATIZE TOLL COLLECTIONS



The South Jersey Turnpike Authority (SJTA) has proposed the idea of privatizing its toll collectors on the turnpike, and parkway. However after the proposal was announced, they immediately were ridiculed by lawmakers and the current toll collectors calling it, "ludicrous". The opposing groups found that if SJTA were to privatize the collectors, a single automobile would save about half of a penny per toll. On a larger scale, if a driver were to take five trips a week for 52 weeks, they would be saving about \$1.50 in tolls

for the year.

Outraged, the toll collectors and lawmakers exclaimed that for all of the toll collectors to lose their jobs for a person to save \$1.50 a year is a disgrace. Assemblywoman Linda Stender explained, "It appears the drive is to reduce salaries for working people who are living on less than \$50,000 a year." Toll Collector Nancy Klechner cries, "I want to keep my job, I want to keep my house...This has been a constant threat. Privatization will just crush my job."

'SERIAL KILLER AD' APOLOGY ISSUED BY LAW FIRM



The June issue of the ever-popular *Maxim Magazine* contains an advertisement from a law firm in San Antonio condemning the trucking industry for the majority of highway fatalities. The law firm, Villareal & Begum issued an apology in response to an enormous amount of negative feedback from The Owner-Operator Independent Drivers Association (OOIDA) and The American Trucking Association (ATA). Truckers and their families spread the unethical advertisement all over social media, raising awareness around the industry. Major truck-stop chains such as Pilot Flying J and TA/Petro removed the issue from their shelves following the discovery. The questionable advertisement featured a tractor trailer with the words "Serial Killer" super-imposed above the windshield.

The law firms intent was to reach out to “those individuals who have been involved in catastrophic accidents as a result of irresponsible drivers” Villareal & Begum said. Norita Taylor, a spokeswoman for the OOIDA answered to the apology by exclaiming, “We have read the response but we are still concerned about the similar types of marketing strategies employed by many law firms across the United States...Truckers still have a target on their backs for raising insurance minimums for the purpose of enriching personal injury lawyers.”

The ad implied that careless drivers in the trucking industry were responsible for the majority of highway accidents. ATA and OOIDA both returned with the most up-to-date figures. 33,561 was the number of highway fatalities in 2012. This includes all accidents, whether a truck was involved or not. In actuality, there were 3,802 large truck accidents in 2012. Studies show that 80%, which would equal 3,041 of these accidents, were not at the fault of the truck driver.

WALMART TRUCKER HELD ON 5 CHARGES AFTER NJ TURNPIKE CRASH



At approximately 1 AM on Saturday, June 7th, Kevin Roper, a 35 year old truck driver for Walmart slammed into a Mercedes Sprinter van carrying 5 people, killing 1. Among the 4 that were injured, was actor/comedian Tracy Morgan; the 45 year old Morgan is most well-known from his time on NBC's *Saturday Night Live* and *30-Rock*. Tragically, James McNair, of Peekskill, NY was killed as a result of Roper's loss of control. He was 62.

A New Jersey State Policeman states, “The driver of the tractor-trailer failed to observe the slow-moving traffic ahead.” He continued, “At the last minute, he swerved to try and avoid the Mercedes limo bus but struck it from behind, forcing the limo to rotate and overturn.” The limo driver suffered a few bumps and bruises; however, Mr. Morgan is in Intensive Care but is improving. He suffered broken ribs, a broken nose, and a broken femur. He underwent surgery on his leg on Sunday June 8th.

Roper now faces one count of vehicular homicide and four counts of assault in Middlesex (N.J.) County Court. He was released over the weekend on \$50,000 bail after turning himself into the police. The criminal complaint linked with the crash states that Roper had been awake for “a period in excess of 24 hours”. However, complaint does not exhibit how investigators came to that conclusion.

The U.S. Department of Transportation's Federal Motor Carrier Safety Administration shows according to their data, Walmart trucks have been involved in 375 total crashes in the past three years, 9 of which have resulted in at least one fatality. Walmart CEO Bill Simon issued a statement in result of the tragic accident; in it he claims, “If it's determined that our truck caused the accident, Walmart will take full responsibility.”

WINEBRENNER SETTLES GENDER-PAY DISCRIMINATION CASE

Winebrenner Transfer, Inc., a Hagerstown, MD based motor carrier must pay a former female truck driver \$42,000 following a gender-pay discrimination case. Tina Thompson, the former Winebrenner employee filed a lawsuit with the Equal Employment Opportunity Commission (EEOC) stating that she was being paid less than her equal male colleagues. Thompson originally discovered this after speaking with her fellow male drivers regarding their pay rate. According to the EEOC's documents Thompson had complained to the company owner and president, Randy Winebrenner several times about her unfit pay.



Court documents show that Winebrenner responded to Thompson's complaints by saying he will pay her whatever he wants. On June 11, 2012 Thompson sent a text message to Winebrenner with yet another complaint. Her employment was terminated the very next day. Further retaliation from Winebrenner came when he filed negative references to her perspective employers. Court documents show Thompson had never been written up or disciplined for anything during her time at Winebrenner Transfer. As a result of the EEOC settlement, Thompson will be paid a total of \$42,000.

\$21,000 for her full back-pay and an additional \$21,000 for liquidated damages.

The motor carrier will also have to distribute and fully incorporate an anti-discrimination policy and complaint procedures for all of its employees and applicants. Furthermore, an EEOC news release states that Winebrenner's owner and vice president will both have to enroll in an anti-discrimination training course and post a remedial notice upon completion regarding the settlement. Debra Lawrence, a region attorney for the EEOC claims, "Addressing gender-based pay discrimination and eliminating employment practices that discourage individuals from exercising their rights under our statutes are two of the agency's national priority issues."

FMCSA WILL SEEK RULE TO TEST DRIVERS FOR SLEEP APNEA



The Federal Motor Carrier Safety Administration will indeed seek out a regulation that results in drivers being tested for sleep apnea.

"FMCSA will issue a notice to address obstructive sleep apnea through the formal rulemaking process after collecting the necessary data and research," according to the FMCSA Communications

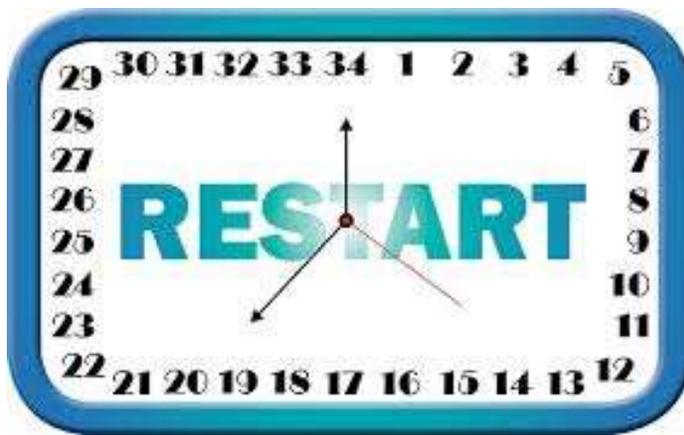
This is not, and we repeat NOT an image of a certain practitioner. He is still breathing on his own, thank you.

Director Marissa Padilla in a recent statement.

Originally the Senate Committee was taken aback by the FMCSA's aggressive actions towards the new regulations, however it was later cleared up between Sen. Roy Blunt (R-Mo.) and FMCSA Administrator Anne Ferro. Administrator Ferro agrees with the Senator and will indeed go through with all proper rulemaking procedures and public comment processes before any rules are created.

Ferro later stated, "Medical examiners are expected when they examine a truck or bus driver and determine if they meet the physical qualifications for holding a commercial driver's license, to include a full examination of chronic conditions that could affect that driver's ability to be alert and all times conscious behind the wheel."

34-HOUR RESTART CHANGES TO BE SUSPENDED



Senator Susan Collins (R-Maine) created an amendment to the voluntary 34-hour restart provision, which will suspend the requirement of two 1 AM – 5 AM overnights during the restart and would allow more than one restart in a seven-day timeframe. The amendment to the bill passed on a 21-9 vote. The Vice President of OOIDA claims, "Truckers have long pointed out the negative impacts of the 2013 changes on their ability to get rest, stay out of busy city traffic, spend time at home, and make family-supporting income."

Upon presenting the amendment, Sen. Collins took immediate aim at the rumors that had been stirring up prior to the amendment's release. She stated, "This amendment does not, does not make changes to the maximum number of hours per day that a driver can be behind the wheel ... it does not change the mandatory 30-minute meal or rest break during a shift ... it does not change the total on-duty window in each shift ... it does not change the minimum off-duty hours required between shifts ... it does not change the sleeper-berth requirement for splitting off-duty time."

Now, what the amendment will do is suspend all provisions regarding the restart once every seven days while the FMCSA conducts a comprehensive study. They are looking in to see if these changes are truly needed. Sen. Collins continued with, "The regulations affecting overnight driving are actually resulting in more trucks being on the road during most congested hours and during the hours when children are going to and from school." She later explained how many truck drivers choose to drive during the overnight shift because there are very few cars on the road alongside them.

In agreement with the amendment, Senator Mary Landrieu (D-La) exclaimed, "I just, I don't know, I viscerally have an objections to the federal government going to far as to prescribe when people should sleep." Once research studies are completed, the House of Representatives and the Senate must reach an agreement on all new pieces of legislation and send it up to the President to

be signed. The President must sign the legislation for the funding to continue. The last time all of the appropriations bills were completely done and signed before October 1st, was in 1996.

NEW CENTURY FILES CHAPTER 7 BANKRUPTCY PETITION DAYS AFTER ABRUPT SHUTDOWN



Nearly 1,500 drivers and employees are now out of work due to New Century Transportation, Inc.'s recent shutdown. The workers received a termination letter stating the company will be shutting down and filing for Chapter 7 bankruptcy. Along with New Century, two other companies have filed for Chapter 7 as well; Northwind Logistics LLC, and Western Freightways LLC. The three companies estimate their creditors to be anywhere from 200-999 and lists its assets and liabilities ranging from \$10 million to \$50

million.

Court documents show that the company estimates that, "after any exempt property is excluded and administrative expenses have been paid, there will be no more funds available for distribution to unsecured creditors." As of June 12, the crucial filing documents were incomplete and must be completed no later than June 25.

Larry and Betty Middleton, two drivers for the company said that they had a hunch that something was off-kilter when New Century ceased their relationship with a cartage company. Later, Larry Middleton stated that his fuel card stopped working while he was on the job. The company had ceased all payment to all trucks.

On Wednesday, June 11, several trucking companies were on-site, interviewing New Century drivers as they pulled into the parking lot to return their equipment. This gave many truckers hope for a new job after their termination. Many recruiters for trucking companies have posted numerous advertisements for companies via social media.

The same day the termination notices were sent out, a driver filed for a class action complaint claiming the company violated the Worker Adjustment and Retraining Notification Act; what is more commonly referred to as the WARN Act. The plaintiff, "seeks to recover the greater of 60 days wages and benefits pursuant to the WARN Act, or lost wages, benefits and other remuneration, including severance pay equal to one week of pay for each full year of employment".

The attorney representing the plaintiff, Jack Raisner, says the federal WARN Act and the New Jersey WARN Act may provide the drivers with some protection, but it is up for the courts to decide.

SUPPORT BUILDS FOR FUEL-TAX INCREASE TO PAY FOR TRANSPORTATION



U.S. Senator Chris Murphy (D-CT) plans to introduce a bill that would call for a \$0.12 raise in federal fuel taxes over the next two years to pay for transportation. This proposition drew immediate support from the transportation powerhouse, AAA. His plan demonstrates a \$0.06 increase in 2015 and another \$0.06 increase in 2016.

Avery Ash, the Director of Federal Relations at AAA stated, "We continue to hear from members of congress – and we have for years – that the gas tax is a non-starter, that it's politically impossible. I think that this poll really helps to illustrate that some of that is not borne out by the numbers."

The average motorist pays about \$95 a year in federal taxes at the gas pump, based on the 18.4 cents per gallon tax. However based on a trucker's 20,000 gallons of fuel a year, they pay about \$4,880 in diesel taxes, at a rate of 24.4 cents per gallon. The OOIDA is in support of the proposed tax increase, they feel it is truly the only effective way to pay for transportation.

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