

TRANSTRENDS

THE TRANSLAW GROUP, INC.

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IF YOU WISH TO END YOUR SUBSCRIPTION TO TRANSTRENDS, SIMPLY SEND AN EMAIL REQUESTING A CANCELLATION TO JBURNS@TRANSREGS.COM

ONE ANGRY LADY



Frustration, controversial regs, and flawed carrier safety scoring systems prompted Sen. Deb Fischer, R-Neb., to introduce legislation on Wednesday targeting reform of the Federal Motor Carrier Safety Administration.

“From industry to law enforcement and safety organizations, stakeholders often express frustration with FMCSA’s lack of follow-through, transparency or response. These challenges have culminated in the controversial 2013 hours of service rulemaking and the flawed Compliance, Safety, Accountability commercial carrier scoring program.

“With an important mission of ensuring commercial carrier safety, FMCSA is deeply in need of regulatory reform,” states an analysis of the bill, The Truck Safety Reform Act or S1669, released by Fischer.

A review of rules, guidance, regulations and enforcement policies would be mandated every five years by the legislation if passed into law. In addition, the agency will have to determine whether the rules and guidance are consistent and clear; current and consistent with the state of the

industry; uniform and consistently enforceable; and whether guidance is still necessary.

The bill doesn't stop with the review. It also places the agency on a 24-month deadline following each five-year review to amend the current regulations and enforcement policies to ensure that they are consistent and uniform.

Fischer's bill also seeks to push more of the guidance process out into the public forum. The bill would mandate that all new and reissued guidance be published in the *Federal Register*. The bill also would prevent the agency from issuing any medical guidance without a formal notice and comment process, unless there is a declared public health emergency from the Centers for Disease Control or the Department of Health and Human Services.

Fischer's bill would force the agency to justify new regulations with best science and technical information; benefits and costs of potential alternatives; available alternatives, including economic incentives; and data on how a new regulation will actually improve safety.

OOIDA, along with the American Trucking Associations and the Commercial Vehicle Safety Alliance, supports Fischer's efforts to reform the FMCSA.

GEORGIA CARRIER PLACED OUT OF SERVICE; EMPLOYEE FEARED FOR PUBLIC SAFETY



A Georgia-based carrier has recently been deemed an imminent hazard and placed out of service by the FEDES, court documents reveal. One employee said "I think I need to quit because we are going to kill somebody," during the investigation.

FMCSA found that Prudential Carriers Inc., of Atlanta, GA, had little or no compliance programs in place, which has led to several accidents within the past nine months. Prudential drivers did not prepare inspection reports and Prudential falsified two annual inspection forms in an attempt to hide its noncompliance status.

On May 12, a Prudential driver delivered canola oil to a business in Macon, GA. Delivery was refused due to a broken container that was leaking canola oil. Prudential instructed the driver to return to Atlanta, which resulted in canola oil spilling on the roads and I-75. (see photo to left)

Four accidents occurred as a result, with police officers sliding on the slick surfaces en-route to the scenes. In another incident on Oct. 21, 2014, a Prudential driver pulled over on the right shoulder of I-20 in Douglas County, GA, due to overheated brakes. The driver fell asleep while waiting for the brakes to cool down. Parked illegally, the Prudential truck was struck by another vehicle.

On May 27, a review was initiated after Prudential's most recent of several crashes. FMCSA investigators discovered that the driver was ordered to proceed despite a known oil leak. As a result, the carrier was given an Unsatisfactory rating and its pervasive incidents of noncompliance was uncovered. Prudential has accrued 95 maintenance violations in 38 roadside inspections over the past year. Of the 11 Level 1 inspections conducted, four leased vehicles were placed out of service. Leased vehicles under the carrier have amassed 55 violations, an average of five violations per inspection.

FEDEX REACHES \$228 MILLION SETTLEMENT

After more than a decade of legal maneuvering, FedEx has settled a class action suit with more than 2,300 employee-drivers who have been ruled misclassified as independent contractors.

FedEx announced it intends to settle via a news release which stated that FedEx Ground has reached an "agreement in principle" to settle for \$228 million with the plaintiffs in the independent contractor class action lawsuit.



THIS PICTURE HAS NOTHING TO DO WITH THE STORY, WE JUST LIKED THE PICTURE!

The suit had been working its way through the federal court system in California since 2005. The settlement is still subject to court approval.

"FedEx Ground faced a unique challenge in defending this case given the decision of the Ninth Circuit Court of Appeals last summer. This settlement

resolves claims dating back to 2000 that concern a model FedEx Ground no longer operates," Christine P. Richards, executive vice president and general counsel of FedEx Corp, said in the release to investors.

In a statement issued after the appellate court's ruling, Beth A. Ross, attorney for Leonard Carder, which represented the drivers, claimed FedEx Ground may owe its drivers "hundreds of millions of dollars for illegally shifting to them the costs of such things as the FedEx-branded trucks, FedEx-branded uniforms and FedEx-branded scanners, as well as missed meal and rest period pay, overtime compensation and penalties."

While the company controlled nearly every aspect of their businesses, the FedEx Ground drivers also claimed they made far less than employee drivers who worked for FedEx. They did not receive important employee benefits like health care, workers' compensation, paid sick leave, vacation and retirement.

LET SLEEPING DOGS LIE



Now, **TRANSTRENDS** is not suggesting that US DOT officials are similar in nature to the much-maligned Pit Bull, however, don't give the FEDS a reason to visit your office – let sleeping dogs lie!

Pay attention to your roadside inspections and make a determination why you may be experiencing excessive roadside citations.

Motor carriers that log onto their portal account can view their Crash Indicator and Hazardous Materials

Compliance Behavior Analysis and Safety Improvement Category (BASIC) status and their Inspection Selection System (ISS) value. You can get more information about the portal accounts by visiting the CSA website.

Carriers can also view detailed information on roadside inspections and crashes that is not available to the public, such as driver names and other carrier-specific information. The Inspection Selection System (ISS) has a profound effect on the number of times a carriers' trucks are inspected. Some roadside inspections are based solely on random selection, but most are done because of the ISS recommendation.

In most cases, the officer's decision to inspect or not to inspect is based on the information they receive when they enter the truck's DOT number into their laptop. The ISS system will return a score and a recommendation based on CSA scores and prior inspection information:

INSPECT OR NOT!	SCORE
Inspect:	75 – 100
Optional:	50 – 74
Pass:	1 – 49

Inspect: Criteria:

- Out-of-service carriers
- High risk carriers (four BASICs exceeding threshold, two BASICs exceeding threshold with one >85)
- Carriers with multiple BASICs prioritized for intervention
- Carriers with Hours of Service BASIC prioritized for intervention

Optional Criteria:

- Carriers with single BASIC prioritized for intervention
- Carriers with Unsafe and/or Crash BASICs prioritized for intervention

Pass Criteria:

- All other carriers with sufficient data to measure

Please call the office for a complete US DOT type review of your operations. Sometime a third party can give you the truth about your compliance practices.

IN THE MONTHS AHEAD



It is time to file your IRS 2290 Heavy Duty Vehicle Tax return with the IRS. Information will be sent to all clients that have used our filing system. You cannot renew registrations of commercial and IRP vehicles without the IRS 2290 receipt.

Further, the tax is actually due August 31 of each year and the tax period is from July 1 through June 30.

The UCR filing will be due in early fall with an effective date of January 1, 2016. Most states now require an up to date UCR filing in order to renew registrations, both IRP and commercial.

Please call the office if you have any questions.

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