



# TRANSTRENDS

THE TRANSLAW GROUP, INC.

EDITOR: JAMES M. BURNS

## IN THIS ISSUE

- 1 CVSA ROAD CHECK
- 2 DUPLICATE CARRIERS
- 2 MOVE TO ELIMINATE DVIR
- 3 SPEED LIMITERS
- 4 OWNER OPERATOR OR NOT
- 4 NC TOLLS
- 5 FLORIDA YELLOW LIGHTS \$\$ MONEY MAKER

IF YOU WISH TO END YOUR SUBSCRIPTION TO TRANSTRENDS, SIMPLY SEND AN EMAIL REQUESTING A CANCELLATION TO [JBURNS@TRANSREGS.COM](mailto:JBURNS@TRANSREGS.COM)

## CVSA'S ROADCHECK 2013 PLANNED FOR JUNE 4-6

Ladies and gentlemen mark your June calendars. The CVSA Roadcheck 2013 is just a few days away. The annual inspection event – the Commercial Vehicle Safety Alliance's 72-hour safety blitz – is scheduled for June 4-6.



CVSA sponsors Roadcheck with participation by the Federal Motor Carrier Safety Administration, Pipeline and Hazardous Materials Safety Administration, Canadian Council of Motor Transport Administrators, Transport Canada, and the Secretariat of Communications and Transportation (Mexico).

CVSA provides a Roadcheck checklist for drivers. Included in

it are tips such as:

- Buckle up.
- Pre-inspect the condition of your vehicle and check for load securement issues.
- Check your brakes.
- Inspect coupling devices.
- Ensure all required lamps are the proper color and operational.
- Check for loose fuel tank mountings, leaks, etc.
- Look over your tires and check for proper inflation, cuts, bulges, etc.

Each year, approximately 10,000 CVSA-certified local, state, provincial and federal inspectors at 1,500 locations across North America perform the truck and bus inspections. Be ready and be prepared. Make sure the simple items are in check such as physical forms, log book updates, brakes, eye glasses worn when required, etc.

## **CHAMELEON CARRIER SCHEME A “NO NO”**

A federal grand jury has indicted the owner of a Georgia-based motor carrier company for two counts of making false statements and one count of conspiracy to continue operations after imposition of an out-of-service order.



The defendant, Devasko Dewayne Lewis, 34, of Lowndes County, GA, was indicted May 16 by a grand jury in U.S. District Court in Macon.

According to the indictment, Lewis and his prior company, Lewis Trucking, was the subject of an Oct. 6, 2008, imminent hazard operations out-of-service order issued by the Department of Transportation's Federal Motor Carrier Safety Administration. The order remains in effect today. The charging documents allege Lewis violated the order by "continuing to operate commercial motor vehicles and concealing his true involvement by filing the applications for Department of Transportation motor carrier numbers under names other than his own."

If convicted, Lewis faces up to five years imprisonment, a fine of up to \$250,000, and up to three years supervised release on each of the false statement counts. The conspiracy charge carries a maximum penalty of one year imprisonment, a fine of up to \$25,000 or both.

Many factors must be considered when forming a new carrier entity by those applicants that already have authority in the name of another carrier. You must consider any outstanding orders from the US DOT relating to unsafe operations, outstanding fines and penalties, poor CSA scores just to name a few. This office can give you the proper guidance needed in order to avoid penalties and jail time!

### **FMCSA TO ELIMINATE 'DEFECT-FREE' EQUIPMENT REPORTS**

Motor carriers that operate more than one truck are currently required to retain records of post-trip driver-vehicle inspection reports known as DVIRs, regardless of whether the report shows any defects to the equipment. The Federal Motor Carrier Safety Administration plans to file a rule to eliminate the reporting requirement if a post-trip inspection finds no equipment defects.

Drivers would still be required to conduct post-trip inspections, but would only be required to fill out a DVIR if the inspection found any defects to report to the motor carrier. One-truck owner-operators are exempt from the reporting requirement and are not required to process and retain DVIRs.

Polly Trottenberg, U.S. Department of Transportation undersecretary of policy, told the House Committee on Small Business that eliminating the reporting requirement for interstate motor carriers would save the trucking industry \$1.5 billion per year.



The agency has already eliminated the reporting requirement for intermodal equipment haulers. The FMCSA estimates savings from the June 2012 final rule at \$54 million for the intermodal industry.

Small Business Committee Chairman Sam Graves, R-MO, conducted the hearing Wednesday, May 8, to find out what the DOT and other agencies are doing to reduce the regulatory burden on small businesses and to comply with a pair of White House executive orders to cut red tape.

“One such effort is a proposal under development to rescind the requirement that truck drivers submit, and trucking companies retain, burdensome paper driver-vehicle inspection reports when there are no actual vehicle defects found,” Trottenberg said.

But, don't toss out those DVIRs until the rule is published, commented on and finalized. Currently, the rules are still the same – you must maintain records for 3 months.

### **SECRETARY'S OFFICE PUNTS SPEED LIMITERS BACK TO NHTSA**

The DOT's Office of the Secretary has punted a notice of proposed rulemaking for speed limiters on heavy trucks back to the agency that submitted it.



Without a publicly stated reason, the OST returned the proposal to the National Highway Traffic Safety Administration on April 18, just over a month after the agency submitted it on behalf of two petitioning groups, the American Trucking Associations and Roadsafe America.

NHTSA plans to resubmit the proposal on or about July 26. The ATA and Roadsafe America filed petitions in November 2005, urging NHTSA to require speed limiters set at 68 mph on trucks weighing over 26,000 pounds.

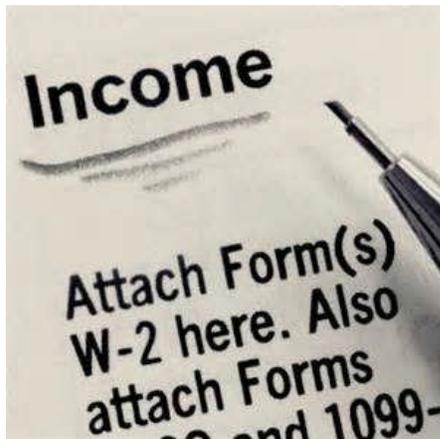
Five years later, the agency granted the petition and developed a notice of proposed rulemaking in March 2011. A notice of proposed rulemaking, known as an NPRM, is a proposal and not a final rule.

Then, following 19 months of inactivity, NHTSA submitted its proposal to the Office of the Secretary on March 4. NHTSA believes the installation of speed limiters on heavy trucks would reduce fatalities in crashes involving CMVs on roads with posted speed limits of 55 mph or above.

This action seems strange to TRANSLAW since many states have upped the speed limits for cars as well as trucks. A spirited comment period is sure to follow!

### **NEW YORK BILL RENEWS PURSUIT TO RECLASSIFY TRUCKERS**

A renewed effort at the New York statehouse continues a battle over reclassification of truck operators and parcel drivers underway in multiple states.



Assemblyman Keith Wright, D-Manhattan, and Sen. Diane Savino, D-Staten Island, are behind an effort to classify owner-operator truck drivers as company employees. OOIDA and the New York State Motor Truck Association are opposed to the reclassification. In 2012, truckers in the state helped to ensure the reclassification effort didn't advance from committee.

"If there is a problem with misclassification in the state, officials would be best served to look at federal rules on the issue," Spencer said. "Existing law determines whether someone is an employee or a contractor. It should be New

York's model."

A similar pursuit remains active in New Jersey. Gail Toth, executive director of the New Jersey Motor Truck Association, recently told state lawmakers that bill supporters "are trying to create a perception that owner-operators, independent contractors, want to be employees.

The legislative attack on driver classification follows a successful lawsuit in the U.S. Court of Appeals for the 9th Circuit brought by the American Trucking Associations. The truckers group sued Los Angeles over portions of its clean truck program, including an expensive concession requirement that all trucks entering the port would have to comply with.

The subsequent ruling confirmed that states cannot regulate the routes, rates or services of trucks engaged in interstate commerce. The U.S. Supreme Court is reviewing the case. A memo attached to the New York bill claims that port truckers and delivery drivers, such as FedEx and UPS drivers, "are often improperly classified as independent contractors."

### **REPORT CALLS FOR \$68 TRUCK TOLL ON I-95 IN NORTH CAROLINA**

Trucks could someday pay \$68 in tolls to run I-95 in North Carolina according to an economic assessment of the corridor prepared by a private firm for the state DOT. The public still has two chances to weigh in on the subject during a pair of public meetings early next week.

According to the assessment by Cambridge Systematics, tolls would be collected every 10 miles along the 182-mile corridor, not every 20 miles as initially proposed, to pay for reconstruction and widening. The reason for 10-mile increments is to provide localized toll discounts, according to the document.



Truck tolls would range from \$1.43 to \$5.24 at each of the 18 proposed tolling locations. The maximum full-length toll adds up to \$68.14.

Cars would pay between 51 cents and \$1.87 per tolling location depending on local discounts. The most a car would pay for a full-length trip would be \$24.

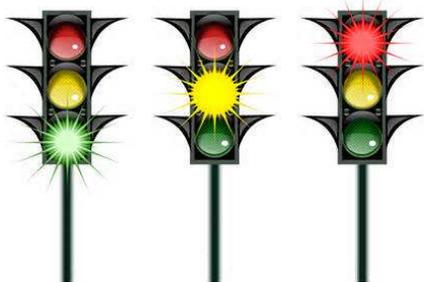
According to a 2012 financial report, the North Carolina Department of Transportation hopes to generate about \$16 billion from tolls over the next 40 years to cover the initial \$4.4 billion reconstruction cost and up to \$12 billion in ongoing maintenance.

The same report says I-95 users could end up paying \$30 billion in tolls during that time frame to cover the \$16 billion costs. The No Tolls on I-95 Coalition, chaired by businessman Ernie Brame, is among those trying to keep the corridor toll-free in a state that already has the fifth highest tax rate for motor fuels.

"I see this as a fight for survival," said Brame, general manager of the Kenly 95 truck stop, part of the Iowa 80 Group.

"My motor fuels tax has gone to improve every highway in the state," he said. "They've built connectors; they've improved I-40 and I-44. ... Now it's time to improve I-95, and they don't have any money. That doesn't fly with me." One condition of the Federal Highway Administration's pilot program is that 100 percent of the toll proceeds must remain with the highway being tolled. That's a condition that Pennsylvania officials could not satisfy when they applied to toll I-80 there.

### **FLORIDA SHORTENED YELLOW-LIGHT DURATIONS, VIOLATIONS INCREASED**



A policy change in 2010 that allowed the Florida Department of Transportation and municipalities to shorten the duration of yellow-lights at intersections helped boost revenue for red-light camera companies, the municipalities and the state's general fund, a recent report found.

Well that conclusion is a "no-brainer".

An investigative report by *WTSP News* in Tampa Bay drew attention to the policy change, saying it led to a \$50 million increase in revenue from violations at intersections policed by red-light cameras in 70 municipalities.

## **TRANSTRENDS JUNE - 2013**

The National Motorists Association, which objects to red-light cameras, says shortened yellow durations should not be happening. If anything, communities need to be lengthening yellow times to make intersections safer.

It will only be a matter of time before politicians in the 48 states figure this out and shorten their yellow light intervals.

**END**

TRANSTRENDS is published monthly for friends and clients of the Translaw Group, Inc. The information provided in this newsletter is not intended as specific advice on a particular subject. Rather, the information is for general edification. Further, this information is time sensitive and may need to be revised and updated from time to time. Please feel free to call this office with your specific questions at 413 781 8205, or you may e-mail the office at [jburns@transregs.com](mailto:jburns@transregs.com).