



President's Message

New Members

Data Dash Inc.

3928 Delor St
St Louis, MO 63116
Ms. Susan Morton
(314) 832-5788

Lite-Check, LLC

3102 E Trent Ave.
Spokane, WA 99202
Mr. Dave Wilson
(800) 343-8579

*Welcome
New Members!*



TRUCKING
Moves America Forward

A few years ago, I wrote in this column about helping my dad and granddad deliver the new Crawford Oil Company calendars to friends, customers and suppliers the week between Christmas and New Years. We had a routine: for those calendars that were for places out of town, we would take the big stack of new calendars and lay them on a table or desk and roll them up and place them in a tube to be delivered. For local deliveries, we would place a stack in the pickup and one of us kids would get to grab one and run it in. It is uncanny how kids can remember the stops where hot chocolate or a treat was exchanged for the calendar!

For a kid growing up, delivering calendars was just something you did during the Christmas break. As I became an adult, I realized the act of delivering a calendar was an important part of "doing business" in your community. To many, it was a token of appreciation for business in the past and for the year to come. To others it was a tradition that they came to rely on for their calendar needs. Finally, some simply liked the pretty pictures and used them for art and decoration.

Membership in the Missouri Trucking Association is a lot like those calendars – it is an important part of doing business for trucking companies in Missouri. Some members use their membership regularly, attending the monthly and yearly meetings to help keep them in contact with their competitors and the latest information available. Others you never see at the meetings, but we know they are using their membership and its benefits for the information and services we provide. Regardless of the type of member you are currently, we thank you for your investment and look forward to serving you in the New Year.

If you have not signed up for the 24 Hour Program for 2015, we encourage you to commit to spending 24 Hours in Jefferson City during the legislative session to help your company, community and association as we work together to improve your business and Missouri's business climate in 2015. For those who have participated in the program in the past, I think you realize it is a program that must be acted on regularly as the legislature continues to change with each election. In 2015, the timing is right as we begin a new General Assembly, and discussion of tolls is at the forefront of the highway funding discussion.

The lessons learned from delivering calendars years ago still hold true today – personal service and contact with your members are traditions that never go out of style. As we turn the page on 2014, Missouri Trucking Association looks forward to the continued positive upturn predicted in 2015 and we look forward to assisting you in all your future business needs.

President Signs Spending Bill HOURS-OF-SERVICE RESTART PROVISIONS EFFECTIVE IMMEDIATELY!

On December 16, 2014, President Obama signed the FY 2015 Omnibus Appropriations bill. Upon signature, two provisions of the 34-hour restart rule were suspended. So what does this mean?

EFFECTIVE IMMEDIATELY:

1. Drivers utilizing the 34-hour restart do **NOT** have to include two consecutive periods off-duty between 1 a.m. and 5 a.m. As long as a driver is off for 34 consecutive hours, regardless of the time of day, the driver can reset the weekly clock.
2. Drivers may take the 34-hour restart multiple times per week. They are no longer restricted to taking the restart only once every 168 hours (or seven days).

Please note that this is a temporary suspension that will be in place through September 30, 2015 while FMCSA conducts a formal study. All other provisions of the hours of service rules remain the same. ▲

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SENATE PASSES TAX EXTENDERS BILL

By a 76-16 vote, the U.S. Senate has just passed the tax extenders bill that the House of Representatives passed earlier this month. The President is expected to sign the bill into law. (The legislation is H.R. 5771, the Tax Increase Prevention Act of 2014.) In general, the bill extends through the end of calendar 2014 some fifty provisions of the Tax Code that expired at the end of 2013 or during 2014. Congress has extended many of the same provisions before, year by year. This bill does not make any of the provisions permanent, as had been proposed earlier. The extensions include provisions that affect both corporate and individual income taxes and the federal excise taxes on fuels.

The provisions of the extenders bill that are likely to have the most effect on at least some motor carriers are these (the section numbers are those of the bill):

Sec. 125. Extension of Bonus Depreciation. This provision extends the 50 percent bonus depreciation option for nearly all business equipment – including motor carrier rolling stock – placed into service during calendar 2014. (The section also extends taxpayers' option to accelerate the use of alternative minimum tax credits in lieu of bonus depreciation.) Given that many motor carriers have replaced older equipment during 2014, or are engaged in expanding their fleets, this section is likely to be the single most important extender for the industry.

Sec. 127. Extension of Increased Expensing. This provision extends the full expensing of property placed into service by small businesses, subject to the limitations in effect during 2010 through 2013. That is, the provision allows the write-off of up to \$500,000 of the expense of a single item of such property, with a progressive phase-out of the tax break for companies whose total purchases of such property exceed \$2 million. (Without the extension, these limits would have reverted to \$25,000 and \$200,000, respectively.)

Sec. 160. Extension of Fuel Tax Credit for Propane and Natural Gas. This provision extends the \$0.50 per gallon credit for the business use of propane and other alternative fuels (including natural gas) and fuel mixtures. The use of propane in forklifts qualifies for the credit.

Sec. 161. Extension of Credit for Alternative Fuel Vehicle Refueling. This provision extends the 30 percent investment tax credit for alternative vehicle refueling property.

The following provisions of the bill may also be of benefit to certain ATA members:

Sec. 122. Extension of 15-Year Cost Recovery. This provision extends to improvements to real property, including motor carrier terminals, placed into service during 2014, the accelerated 15-year straight-line depreciation that has been accorded such property for some time. Without this option, the cost of such property could only be recovered over a much longer period.

Secs. 136 & 138. Extension of exclusion of gains on small-business stock. The first provision extends the full exclusion from income accorded to the non-corporate holders of gains in certain small-business stock which the holders sell after having held the stock for more than five years. (Without the extension, the exclusion would revert to 50 percent.) The second extends the reduced period of five years for the nonrecognition of built-in gains which occurred when a traditional, subchapter C corporation was converted into a subchapter S (closely held) corporation. (Without the extension, the holding period would revert to ten years.) These provisions may apply to many smaller, family-held motor carriers.

Sec. 153. Extension of Bio- and Renewable Diesel Credits. This section extends the \$1 per gallon tax credit for biodiesel production.

For more information, please contact Bob Pitcher - rpitcher@trucking.org or Glen Kedzie - GKedzie@trucking.org at American Trucking Associations. ▲

Give your hazmat drivers the training they need ... in ALL required areas!

J. J. Keller's **Hazmat Transportation: Driver Training** program addresses all four critical areas of DOT-required training:

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- function-specific
- safety
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- Hazard Classification (Classes and Divisions)
- The Hazardous Materials Table
- Shipping Papers and Emergency Response Information
- Marking and Packaging
- Labels and Placards
- Loading and Segregation
- Transportation Safety
- Security Awareness

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Member Cancellations December 2014

Name of Company	Class	Dues
Gravel Shooters & Quality Waterproofing	Private	\$350.00

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Tom Crawford, President and CEO
PO Box 1247
102 E High Street
Jefferson City, MO 65102
573-634-3388
mota@motrucking.org



2015 Missouri Trucking Association Events

- January 13 & 15 **SuperTech Written Testing**
Kansas City ~ Jefferson City ~ Springfield ~ St. Louis
- February 4 & 5 **Safety & Maintenance Conference, Expo Hall, Awards Banquet & SuperTech Competition**
(Register Now!)
Hilton Branson Convention Center ~ Branson, MO
- June 12 & 13 **Truck Driving Championships**
Holiday Inn ~ Joplin, MO
- June 23 **Sitton-Babcock PAC Golf Tournament**
Old Kinderhook Golf Club ~ Camdenton, MO
- October 7-9 **Annual Convention**
Chateau on the Lake ~ Branson, MO



Mark your calendars!

NEWS

GOVERNMENTAL AND REGULATORY



EPA Proposes to Tighten National Ozone Standard

On Nov. 26, EPA issued a 626-page proposed rule to tighten the current ozone standard of 75 parts per billion (ppb) -- set in 2008 during the George W. Bush administration -- to a range between 65 and 70 ppb. The agency also announced that it will take comment on a standard as low as 60 ppb. Ground-level ozone pollution is formed when nitrogen oxides emitted by both industrial and mobile sources react with volatile organic compounds in the presence of sunlight. Ozone is also a key component of smog. Both EPA's science advisers and its technical staff earlier this year recommended that EPA set a new standard in the range of 60 to 70 ppb based on recent data about the public health impacts of ozone. In 2011 the agency was set to tighten the standard to that range but the White House withdrew the proposal before it was finalized. EPA had been under a December 1 court deadline to release a new proposal and is required to finalize the rule by Oct. 1, 2015. A tighter standard will result in more ozone nonattainment designations across the country. EPA expects to finalize new ozone non-attainment areas sometime in late 2017. Nonattainment designations trigger Clean Air Act requirements for states to develop and put in place pollution control plans. For trucking, state plans may include measures to advance cleaner engine standards through retrofit or scrappage programs. EPA said it plans to open up the proposal to a 90-day public comment period and to hold three public hearings in January. A pre-publication copy of the rule can be viewed at <http://www.epa.gov/groundlevelozone/pdfs/20141125proposal.pdf>. ▲

EPA Delays Finalizing 2014 Renewable Fuel Standard Until 2015

EPA announced Nov. 21 that it won't be finalizing the 2014 federal Renewable Fuel Standard (RFS) rule until sometime next year. The RFS, which was originally enacted in 2005 and amended in 2007, sets national volume production levels for renewable fuels including both biodiesel and ethanol. EPA published a proposed rule in Nov. 2013 which, for the first time, proposed to cut annual renewable fuel production volumes. National biodiesel production levels for 2014 were proposed to remain at 1.2 billion gallons even though U.S. biodiesel production reached a record 1.8 billion gallons in 2013. By statute, EPA was to have finalized 2014 RFS volume targets by Nov. 30 of 2013. ▲

FHWA Size and Weight Study Completion Delayed Until 2015

The federal Comprehensive Truck Size and Weight Limits Study, originally scheduled to be completed this month, will be delayed until 2015, officials said.

The congressionally mandated Federal Highway Administration study will address differences in safety risks, infrastructure effects and the impact on levels of enforcement between trucks operating at or within federal truck size and weight limits and trucks legally operating in excess of federal limits.

"We recognize many people, including Congress, are eagerly awaiting the release of the report," FHWA said in a Nov. 24 release. "However, the department is committed to producing the most objective, data-driven report possible." ▲

~ Transport Topics ~



FMCSA Announces Relief on DVIR Rule

On Tuesday, Dec. 9, 2014, the Federal Motor Carrier Safety Administration announced the publication of a final rule to eliminate the need for commercial truck drivers to complete a Driver Vehicle Inspection Report when “no defect” is found during the end of day inspection. The rule change will take effect Dec. 18, 2014. For carriers crossing into Canada, a current DVIR will still be required. The new rule also harmonizes the pre-and post-trip inspection lists. According to the FMCSA, eliminating the “No Defect” DVIRs will save the trucking industry an estimated \$1.7 billion annually. While ATA believes the savings estimate is highly overstated, we commend the agency for its efforts to provide the industry with regulatory relief. ▲

FMCSA Issues ANPRM on Minimum Levels of Financial Responsibility

On Friday, Nov. 28, the Federal Motor Carrier Safety Administration issued an advance notice of proposed rulemaking related to minimum levels of financial responsibility for motor carriers, brokers and freight forwarders (in terms of the bond requirements), and potentially buses. An ANPRM is a tool used by agencies to gather information to inform whether a rulemaking is necessary. In this instance, FMCSA has been on record indicating the current minimum insurance levels for motor carriers are inadequate and need to be increased. The ANPRM asks a series of questions aimed at, among other things, determining current insurance policies, how premiums are calculated, how much premiums would go up if the levels were increased and the potential impact on the insurance market and the pool of large and small motor carriers if levels were increased. Most of these questions are either targeted toward proprietary business models to which insurers are unlikely to respond or are generally unanswerable with any reliable accuracy. ATA has provided FMCSA relevant information it has captured in the past on the incidence of claims that exceed the current minimums and will respond to this ANPRM. The deadline for comments is Feb. 26, 2015. ▲



ATA Reminds Drivers to Retain Medical Cards

ATA reminds all carriers that drivers must retain a paper copy of their medical examiner’s certificate until January 30, 2015. This is necessary since some states are still unable to append medical certification information to a driver’s Motor Vehicle Record (MVR). Others are facing significant backlogs which have delayed the updating of MVRs beyond the required ten days. As a result, drivers are being cited by law enforcement at roadside for not having their medical qualifications up to date despite having submitted the required information to their State Drivers Licensing Agency (SDLA).

In January of 2014, the Federal Motor Carrier Safety Administration addressed this concern by issuing a rule requiring drivers to retain the paper copies of their medical examiner’s certificate until January 30, 2015. Carriers are encouraged to retain a copy of the FMCSA issued rule to mitigate potential confusion at roadside, and to use if challenging a roadside citation. If available, drivers should also retain any receipt provided by the SDLA at the time they submitted their med card. ▲

Sign The Petition Against Interstate Tolls!

Are you fed-up with politicians trying to squeeze more money out of you by putting tolls on roads that are paid for with the fuel tax and have been free to use for years? Many in Washington are saying we should add tolls to existing interstates as an easy way to get more road funding.

Now you can take action by going to <http://www.tollfreeinterstates.com/> and signing the petition against interstate tolls. Make your voice heard today! ▲

Some Employers Will Owe Higher FUTA

During the recent recession, most states, once their own unemployment compensation funds were exhausted, borrowed money from the federal government in order to keep paying benefits. Once the recession was over, the states had to pay back that borrowed federal money. Some states have been slow to do that, and employers in those states will owe a little more in federal unemployment taxes (FUTA) for the fourth quarter of 2014, a payment that’s due January 31, 2015. The seven states whose employers will find themselves in this position are: California, Connecticut, Indiana, Kentucky, New York, North Carolina, and Ohio. The additional amounts due will be as much as \$84 per employee in most of these states, and a little more in Connecticut and Indiana. For more, see here, <http://workforsecurity.doleta.gov/unemploy/finance.asp>, under *Final 2014 FUTA Credit Reductions*. ▲

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ATA Commits to Hiring 100,000 Veterans as Part of Hiring Our Heroes Initiative

American Trucking Associations announced it was committing on behalf of the trucking industry and its members to hire 100,000 veterans as part of the U.S. Chamber of Commerce Foundation's Hiring 500,000 Heroes campaign. Hiring Our Heroes was launched in March 2011 as a nationwide initiative to help veterans and military spouses find meaningful employment. Working with the U.S. Chamber of Commerce's vast network of state and local chambers and other strategic partners from the public, private, and non-profit sectors, more than 1,700 companies have committed to hire 585,000 veterans and military spouses. To date, there have been 369,000 confirmed hires. "As a veteran and a professional truck driver, I know that my fellow service members have what it takes – and what fleets are looking for – to safely move America's freight," said Alphonso Lewis, a professional driver with YRC Freight and an America's Road Team Captain. "Driving a truck has been a tremendously rewarding career for me after my service ended and I know that there are thousands of potential drivers in our military just looking for the opportunity." ▲

U.S. Tax Court Denies Interest Abatement

The U.S. Tax Court has ruled that taxpayers were not entitled to an abatement of interest on an underpayment even though they had an overpayment in a prior year. The situation in this case was complex, and the discussion of it necessarily very abstract. For the 2005 tax year, the taxpayers claimed a net operating loss. They claimed a portion of this for 2006, thinking they were eliminating any liability for that year. However, they had improperly applied the NOL, since, without an election which they hadn't made, they needed to carry the loss back two years before they could carry it forward. In 2008, they rectified this mistake by filing amended returns: for 2003, applying the NOL to that year instead and generating an overpayment of some \$200,000; and for 2006, acknowledging that without the NOL they now had a liability of some \$70,000 for that year. At the same time the taxpayers requested IRS to apply as much of the 2003 overpayment to their underpayment for 2006 as would be required to eliminate the latter. Instead, the IRS promptly refunded the entire overpayment to them, and assessed them for the underpayment plus two years of interest. The only issue was whether the interest assessment was proper. The court ruled that it was. The tax law, it pointed out, was not in all respects symmetrical in its treatment of interest, in that Congress was very specific about the circumstances under which interest could be allowed on an underpayment, and without such legal authorization, no interest might be paid. There was not, said the court, any applicable "use of money" theory under which the government's possession of an overpayment by a taxpayer (as here, for 2003) might somehow cancel out an underpayment (for 2006, in this instance). There was therefore no question that since the taxpayers had in fact not paid all their taxes for 2006 until 2008, they owed interest for that period. The court added that since IRS had promptly refunded the 2003 overpayment, once the NOL was applied to that year, it owed no interest to the taxpayers on that money, according to the Code. *Larkin, et ux. v. Commissioner*, docket no. 13515-11, decided September 24, 2014 ▲

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ATRI Announces New Research Advisory Committee Members

The American Transportation Research Institute released the names of those individuals appointed by the ATRI Board of Directors to serve on the 2015-2016 Research Advisory Committee. Among other activities, ATRI's RAC is responsible for annually identifying the top research priorities for the trucking industry. Its members represent a diverse cross-section of trucking industry stakeholders including motor carriers, industry suppliers, commercial drivers, shippers, law enforcement, academia and government. Steve Niswander, VP of Safety Policy & Regulatory Relations for Groendyke Transport was appointed to a second term as Chairman of the RAC. For a complete list of new PAC members, go to <http://atri-online.org/2014/12/01/atri-announces-new-research-advisory-committee-members/> ▲

ATRI Research Documents Alarming Demographic Trends for the Trucking Industry

The American Transportation Research Institute, the trucking industry's not-for-profit research organization, released a white paper that highlights a challenging future for the trucking industry based on demographic data and a dramatic shift in the age of the industry's driver workforce. ATRI's analysis of U.S. Census Bureau data found that the trucking industry is disproportionately dependent on employees 45 years of age or older, many of whom will retire in the next 10-20 years. "If the industry doesn't collectively figure out how to recruit younger drivers, we may not have anyone left to haul freight in the coming decades. With more and more of the nation's freight being hauled by trucks now and in the future, this is a piece of the puzzle we have to solve," said Keith Tuttle, Founder, Motor Carrier Service, Inc. and a member of ATRI's Research Advisory Committee. The report discusses the issues impacting the industry's ability to attract younger drivers, and offers solutions to the problem including an increased vocational presence for the trucking industry and closing the gap between high school and CDL eligibility. A copy of the white paper is available from ATRI's website at www.atri-online.org. ▲

IRP Reminder - FULL RECIPROCITY PLAN (FRP)

Coming soon - January 1, 2015

The FRP is taking effect January 1, 2015 that will grant every IRP registrant full registration privileges for all of their vehicles in all IRP jurisdictions.

A new IRP customer on and after January 1, 2015 will pay a registration fee to each IRP member jurisdiction for the first year registration. The fees will be calculated by using the NY "Average Per Vehicle Distance Chart". Your new IRP registration cab card will display all IRP member jurisdictions granting registration privileges in each of those jurisdictions for your vehicles.

Renewing IRP customers that have a current expiration date of January 31, 2015 and after will report all actual distance traveled during the reporting period (July 1 - June 30 of the previous year) and pay registration fees only to those jurisdictions. Your new IRP registration cab card will display all IRP member jurisdictions granting your registration privileges in each of those jurisdictions for your vehicles. The use of estimated mileage on renewals has been eliminated.

If you have any questions on the FRP please contact the International Registration Bureau (IRB) at: (518) 473-5834.

For further information on the FRP visit the IRP website at:

www.irponline.org. ▲



Van Line Denied NYS Exemption

The New York State Supreme Court, Appellate Division, has ruled that a household goods mover was not entitled to an exemption from the state's highway use (weight-distance) tax with respect to movements of certain goods. Before the elimination of the Interstate Commerce Commission in 1996, federal transportation law defined household goods as comprising three categories: personal effects, the property of businesses changing location, and property involved in shows, display, or the like. These categories were known as Provisos 1, 2, and 3, respectively. New York transportation law mirrored federal law in this respect, and state tax law granted a highway use tax exemption to loads of household goods so defined. The federal law that eliminated the ICC, however, narrowed the federal definition so that it included only Proviso 1, and also narrowed the ability of states to impose economic regulations on the trucking industry. At that time, the state transportation commissioner notified household goods movers that his department would now have to adhere to the narrowed definition of household goods. Neither the state transportation law nor the tax law was amended, however. Pursuant to an audit, the state tax department assessed highway use tax on a van line's movements of Proviso 2 and 3 property. The van line argued that the broader definition of household goods still contained in state law continued to govern the extent of the tax exemption, but the court disagreed. It held that when the federal law changed, it created a conflict between the federal and state definitions, and thus the state definition was preempted, narrowing the tax exemption at the same time. *Atlas Van Lines, Inc. v. Tax Appeals Tribunal, et al.*, docket no. 516631, decided October 23, 2014 ▲

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U.S. Court Rules on FET

The U.S. District Court for Oregon has ruled that a manufacturer of truck bodies was required to take an exemption certificate each time it sold a piece of equipment to a retailer customer or it would itself be subject to the 12 percent federal excise tax on heavy trucks and trailers. The taxpayer here built bodies for dump trucks and trailers. Most of these it sold to truck dealers for resale. From each dealer, the taxpayer accepted an exemption certificate (Internal Revenue Service Form 637 or the equivalent), stating that the dealer would be reselling the equipment and that therefore no tax was due from the manufacturer. But the taxpayer only required such a certificate once per dealer, and not each time it made a sale. There was evidence that IRS had in the past accepted this practice. On an audit for the 2005 and 2006 tax years, however, IRS sought to require a 637 for each transaction, and assessed tax for those for which the taxpayer had no certificate. The court upheld the assessments. It said that the tax law and regulations imposed the FET on the first retail sale, but effectively made the first sale of taxable equipment the first retail sale, *unless* the buyer certified it was a sale for resale. Each transaction had to be documented in such a fashion for it to be exempt, the court went on, or at least, if there were only a single certificate, it had plainly to cover all transactions with a specified retailer for a specified period. Those accepted by this taxpayer were not of that nature. The court also ruled that the acceptance of what amounted to a generic 637 was not substantial compliance with the tax regs, and that the taxpayer had failed to prove it had relied on misleading IRS guidance. *Rogue Truck Body, LLC v. United States*, docket no. 1:13-cv-00265-CL, decided October 30, 2014. There is some indication in the court's opinion that IRS would not in fact seek to collect FET on equipment for which the taxpayer's dealer customers had in fact paid the FET. ▲

~ State Laws Newsletter ~



MoTA Photo Album

*Check back . . .
you could be in
our next album!*

