President’s Message

For 66 years, Missouri Trucking Association has been celebrating the accomplishments of the safest drivers and fleets in Missouri. New to the award list this year is our Maintenance Technicians. In addition to our SuperTech Competition to be held in April, the newly formed Maintenance Council has been soliciting and awarding Technicians of the Month. To our knowledge, few other states, if any, are awarding a Technician of the Month award outside of the SuperTech Competition.

Make plans TODAY to attend the Safety and Maintenance Conference on March 27-28 at the Country Club Hotel in Lake Ozark, MO. Take a look at the agenda and I think you will agree the content, topics and speakers are second to none!

Due to demand, we are already out of sleeping rooms at the Country Club Hotel, but have plenty of space for attendees for the conference and educational programming. MoTA has made arrangements for rooms at the Camden on the Lake Hotel, a mere 5 miles from the Country Club Hotel. Please call (573) 365-5620 for reservations - ask for the MoTA rate - $99.

We hope you will come out to join us in celebrating all of the award winners, and we look forward to seeing you at the Lake!

Welcome New Members!

Safety Conference
Topics
- MAP 21 Highway Bill Update
- Enforcement Goals, Priorities & Challenges in 2013 and Beyond
- Operating with EOBRs - Overcoming the Challenges
- Step by Step with a CSA Intervention
- DATAQ: Issues & Solutions
- Medical Registry: How Carriers will Adapt
- Strategies for Affecting Driver Behavior & Improving Driver Fitness
- Basic Performance
- Health & Wellness: A Marketing Approach to “Selling” Wellness
- Setting Up a Sleep Apnea Program to Fit Your Budget
- Using Technology as a Compliance Tool
- Methods & Means of Acquiring/Tracking Safety Data
- How to Prevent/Audit Compliance to Avoid OSHA Violations
- The Future of Drug Testing - Hair Testing & Synthetic Drugs

Maintenance Conference
Topics
- Spec’ing & Management Strategies for Maximum Fuel Efficiency
- CNG-LNG - Will it Work for Your Operation
- Technician Recruitment and Development Strategies: Dealing with the Technician Shortage
- Coolant Management Strategies: Identification, Tooling & Maintenance
- How to Strategically Improve Your Tire Maintenance Program
- Spec’ing the “Green Reefer” - Innovations in Refrigeration Unit Design, Maintenance and Operations
- Manage Total Labor/Time & Productivity
- Emission Regulations on Today’s Engines: How It’s Affecting Your Operation
- How Can Adding VMRS to Your Maintenance Program Add to Your Bottom Line
- Future of Truck & Electrical Diagnostics

New Members

Bose Corporation
100 Mountain Road
Framingham, MA 01701
Mr. Al Anderson
(508) 879-7330

Cooling Concepts
7751 Carondelet Ave, Ste 405
Clayton, MO 63105
Mr. Don White
(314) 932-1236

FirstLab
100 Highpoint Drive, Ste 102
Chalfont, PA 18914
Ms. Peggy Levins
(215) 396-5524

Inland Truck Parts Co.
8801 NE Parvin Road
Kansas City, MO 64161
Mr. Jim Adams
(816) 471-3154

Manac Trailer USA
8593 Hwy 77
Oran, MO 63771
Mr. Keith Limback
(724) 294-0007

SKF USA Inc.
4833 Morestead
St. Louis, MO 63128
Mr. Lamont Johnson
(314) 378-8596

Yokohama Tire Corp.
6001 South Acacia Ave.
Fullerton, CA 92831
Mr. Gene Young
(800) 423-4544

Welcome New Members!
Newly Updated!
Item # 27593 CSA Handbook: A Complete Guide for CMV Drivers

Pricing:
1-9    $7.00 each
10-24   $6.75 each
25-49   $6.25 each
50-99   $6.00 each
100+   $5.25 each

Shipping Soon

- Covers all the info CMV interstate truck and bus drivers need to operate successfully under CSA
- Fingertip access to explanations of the seven BASICs, severity tables and tips for avoiding most common violations
- Explains: how to prepare for roadside inspections, rights during inspection, what not to do, and steps to take afterward
- Ideal in-cab reference for improving driver and company compliance scores
- Based on December 2012 update to FMCSA’s Safety Measurement System (SMS) Methodology
- Spiral bound, 255 pages, 7” x 5-1/16”

Studies Show Auto Driver Often at Fault in Truck-Involved Crashes, ATA Reports

As many as three of every four crashes involving cars and heavy trucks are caused by automobile “driver factors” such as speeding or failure to stay in a lane, according to a report released by American Trucking Associations.

ATA said the report was aimed at highlighting that in most car-truck accidents, the truck driver could not have prevented the crash. In addition, the federation wants to draw attention to the fact that many studies were based on information contained in police accident reports.

The federation’s report comes after an accident reconstruction expert told members of a Federal Motor Carrier Safety Administration advisory panel examining the agency’s Compliance, Safety, Accountability safety rating program that police accident reports are not always reliable as a sole source to determine fault (2-11, p.2).

However, David Osiecki, ATA’s senior vice president of policy and regulatory affairs, said the federation’s report showed that police accident reports often are used properly to arrive at fault conclusions.

Data from a Michigan study showed that in fatal car-truck crashes, cars were the encroaching vehicle in 89% of head-on crashes, 88% of opposite-direction side-swipes, 80% of rear-end crashes and 72% of same-direction side-swipes – all indicators that the car was at fault.

ATA has urged FMCSA to use police accident reports as a way to assign fault for CSA data purposes.

Osiecki said that police accident reports aren’t completely accurate and are not always completely filled out, but they can be used to make determinations of who initiated a crash and who was the primary contributor in many cases.

“While not perfect, they’re pretty good,” Osiecki added. “We can’t let perfect be the enemy of the good.”

~ Transport Topics ~

Member Cancellations February 2013

<table>
<thead>
<tr>
<th>Name of Company</th>
<th>Class</th>
<th>Dues</th>
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<tbody>
<tr>
<td>A L Huber</td>
<td>Private</td>
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<td>B &amp; C Truck Electric Service Inc.</td>
<td>Allied</td>
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<tr>
<td>Broadway Wrecker LLC</td>
<td>For Hire</td>
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<tr>
<td>Clarkson Construction Co.</td>
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<td>Clever Stone Company Inc.</td>
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<tr>
<td>David J Peters Trucking Inc.</td>
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<td>Delta Companies Inc.</td>
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<td>Eiken Trucking Inc.</td>
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<td>Walter Transport Inc.</td>
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IRS Provides Guidance on Fuel Credits

The federal tax legislation enacted at the first of this year extended certain expired tax credits for alternative fuels retroactively, back to the beginning of calendar 2012. Those provisions are now due to expire at the end of calendar 2013. The credits are the 50 cent per gallon fuel tax credit for alternative fuels, two credits for biodiesel, and the 30 percent alternative fueling income tax credit. The first has been of interest to many motor carriers, since it includes both natural gas and propane, including propane used in forklifts. The Internal Revenue Service has issued guidance on the extent of these credits and how they may be claimed for both 2012 and 2013. See here: http://www.irs.gov/uac/Fuel-Tax-Credit-Extensions-Frequently-Asked-Questions. ▲

~ State Laws Newsletter ~

FMCSA Moves Forward to Allow Deaf Drivers to Receive CDLs

On February 1, the Federal Motor Carrier Safety Administration (FMCSA) issued a decision granting 40 deaf intrastate drivers and former interstate drivers an exception to the Federal Motor Carrier Safety Regulations’ hearing qualifications.

When FMCSA previously announced consideration of the issue, ATA suggested that FMCSA should instead consider a full rulemaking allowing all otherwise qualified deaf drivers to operate commercial vehicles. FMCSA did not choose to do a formal rulemaking for all drivers, because “the rulemaking process is too lengthy to afford relief” to these 40 drivers. However, FMCSA notes that it has received a petition to revise the hearing qualifications, that it has research demonstrating the safety of deaf drivers, and that “additional studies could simply delay drivers receiving a CDL and prove costly to the government without providing meaningful additional safety to the driving public.”

ATA is hopeful that this announcement indicates FMCSA’s intention to move forward with such a rulemaking addressing all deaf drivers. ▲

FMCSA Releases Safety Management Cycle

The Federal Motor Carrier Safety Administration released new materials to help motor carriers identify and address their safety and compliance issues. These materials include the Safety Management Cycle (SMC), a tool that FMCSA investigators use during onsite investigations. The SMC is able to identify safety problems, their root causes, and safety solutions. All content that was previously available on the federal Outreach & Media page is now available and easier to find on this Resources page. Type in a keyword to search and filter documents or select a stakeholder group to view FAQs and documents related to that stakeholder group. You can also select “show all” to view all collateral material.


FMCSA Q & A on New Broker Rules Available

The federal highway bill enacted last year includes a provision that increases the financial security requirement for brokers from $10,000 to $75,000 effective October 1, 2013. Recently, the Federal Motor Carrier Safety Administration posted a “frequently asked questions” document - http://www.fmcsa.dot.gov/documents/MAP-21/Broker-Rule-Questions.pdf. It clarifies that motor carriers are not required to register as brokers with the agency when they are involved in interlining because they are generally moving freight either on their own operating authority or on the authority of the carrier they are interlining with. ▲

Commercial Driver Declared an Imminent Hazard

The Federal Motor Carrier Safety Administration has ordered a California-based commercial truck driver, Nebyou Brook, to immediately cease operating as a commercial vehicle driver and declared him an imminent hazard to public safety. FMCSA ordered Brook to cease operating following an inspection on Feb. 5, 2013, that led to the discovery of Brook’s negligence in ignoring the drug, alcohol and hours-of-service prohibitions in the federal regulations.

FMCSA placed Brook out of service after investigators found serious safety concerns during four roadside inspections taking place over nearly a year, in which he had been cited for egregious safety and traffic law violations while operating a commercial motor vehicle. By all means, read the out-of-service order at http://www.fmcsa.dot.gov/documents/about/news/2013/IH-Order_Nebyou-Brook.pdf for the details. Then be grateful that your company never hired this person. ▲

FMCSA Reminds Carriers to Update Fleet Data

Motor carriers are required to stay up-to-date on the Motor Carrier Registration Form (MCS-150), including recent Vehicle Miles Travelled (VMT) and Power Unit (PU) data. This information is used by the Federal Motor Carrier Safety Administration to calculate carriers’ Unsafe Driving and Crash Indicator Behavior Analysis and Safety Improvement Category (BASIC) percentiles. Go to https://li-public.fmcsa.dot.gov/LIVIEW/PKG_REGISTRATION.prc_option to update your MCS-150 information. Under the “Existing Registration Updates” section, choose the first option – “I need to update my USDOT number registration information or file my biennial update.” ▲

More CSA Changes in the Works

FMCSA will likely propose another set of CSA improvements early next year, said Rob Abbott, ATA vice president of Safety Policy. These proposed changes will likely include: (1) adjustments to the severity weights assigned to violations; (2) fine-tuning the utilization factor used to incorporate vehicle mileage into the exposure measure in the Crash Indicator and Unsafe Driving BASIC; and (3) modifications to the safety event (peer) groups that FMCSA uses to compare carriers of similar size and exposure.

ATA will continue to advocate for changes that will result in a system that better identifies unsafe carriers and prioritizes them for intervention. ▲
Unified Registration System Nearing Publication

The Unified Registration System (URS), which will reform the way the federal government keeps track of motor carriers, brokers and freight forwarders, is in the final stage of the rulemaking process. The Federal Motor Carrier Safety Administration recently sent the final rule to the White House Office of Management and Budget (OMB) for review. OMB typically takes three months or so to vet agency rules, although the process could be extended if changes are required.

This rule has been in the works for seven years. The new system will replace three legacy identification systems. Details have not been made public, but the agency was proposing to combine the systems that track identification, registration and financial responsibility into a single, new online system. All registrants would have to update their information every two years.

The proposal also called for all companies registered under the URS to be identified by their Department of Transportation numbers, although motor carriers would be allowed to use their obsolete MC numbers for business and advertising. Carriers would not have to remove that number from their trucks but the agency would encourage them to do that on new or repainted trucks once the rule is final.

Also, the agency would no longer accept or review requests for transfers of operating authority. And private carriers that haul hazardous materials interstate would have to show that they meet the financial requirements.

The new URS will be one of a family of rules intended to raise transfers of operating authority. And private carriers that haul hazardous materials interstate would have to show that they meet the new system requirements.

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Also, the agency would no longer accept or review requests for transfers of operating authority. And private carriers that haul hazardous materials interstate would have to show that they meet the financial requirements.

The new URS will be one of a family of rules intended to raise the bar to entry into the business and help keep better track of “chameleon” carriers - those that evade enforcement by re-registering under a different identity. ▲

UCRA Fees Won’t Change for 2014

The board of directors of the Unified Carrier Registration Agreement voted not to recommend any changes for 2014 in the level of UCR fees paid by motor carriers and other entities, thus keeping fees at the same level since 2010. The U.S. Secretary of Transportation sets the UCR fees upon recommendations from the UCR board. ▲

OSHA Injury/Illness Posting Requirement Began February 1

Since February 1, employers who are required to keep the Occupational Safety and Health Administration (OSHA) Form 300 Injury and Illness log have also been required to post a summary of the log. Employers must post OSHA Form 300A from February 1 to April 30, 2013 in a common area wherever notices to workers are usually posted. The summary must list the total numbers of job-related injuries and illnesses that occurred in 2012. All establishment summaries must be certified by a company executive. Copies of the OSHA Forms 300, 300A and 301 and instructions are available for download on the OSHA Recordkeeping webpage at http://www.osha.gov/recordkeeping/RKforms.html. ▲

Dollies Exempt from FET

Recently an inquiry was raised regarding whether dollies (converter gear, auxiliary axles) are in fact exempt from the 12 percent federal excise tax, regardless of weight.

After considerable research into the matter, ATA has confirmed that dollies are FET-exempt, per a 1988 letter ruling issued to ATA by the Internal Revenue Service.

Some had felt that the tax might have been imposed on dollies under IRS Reg. 48.4061(b)(2), but the statute underlying that regulation was repealed decades ago, and although the regulation has never been updated to reflect the fact, it no longer has any basis in law. ▲

~ State Laws Newsletter ~
FMCSA Tells ATA It Will Not Delay HOS Enforcement

The Federal Motor Carrier Safety Administration said it will not delay enforcement of the latest changes to the hours-of-service rules for truck drivers, saying that American Trucking Associations did not demonstrate enough harm to the industry and law enforcement to merit such a delay.

"Mere uncertainty over the possible outcome of the litigation, which you recognize is a matter over which the parties differ, does not create likelihood that the industry or the enforcement community will suffer harm due to wasted training resources or confusion," FMCSA wrote in a letter to ATA, which the agency provided to Transport Topics.

ATA had asked FMCSA in a Jan. 25 letter to hold off enforcing the rule until three months after ATA's pending lawsuit is decided.

The federation, which is suing in federal court to have the rule overturned, said the industry and law enforcement would need months to train and prepare for the changes.

In a lawsuit filed in February 2012, ATA asked the Court of Appeals for the District of Columbia Circuit to overturn the changes, saying the agency overstated the role fatigue plays in truck crashes and that the new rule is too restrictive.

Oral arguments before the appeals court are scheduled for March 15.

David Osiecki, senior vice president of policy and regulatory affairs at ATA, said he was "disappointed" by FMCSA's decision.

"FMCSA's response means that carriers, shippers and FMCSA-funded state enforcement agencies will have to spend time and money on training and adapting systems to a rule whose final form will not be certain until the court issues its decision," Osiecki said.

The Commercial Vehicle Safety Alliance also asked for the delay, and the Owner-Operator Independent Drivers Association agreed.

The changes, set to take effect July 1, restrict how drivers can use the optional 34-hour restart to reset their weekly driving limits of 60 hours in seven days, or 70 hours in eight days.

Drivers will be able to use the restart only once every seven days, and it must include two periods from 1 a.m. to 5 a.m.

Under the new regulation, drivers will also have to take a 30-minute break before driving more than eight hours continuously.

ATA has not yet asked the D.C. court to force FMCSA to delay the changes. Osiecki said the group is “considering our options” for court action.


~ Transport Topics ~

ATA Says No Delay of HOS Rule Will Cost Trucking Industry $320 Million

American Trucking Associations said recently the Federal Motor Carrier Safety Administration’s decision not to delay implementation of FMCSA's hours-of-service rule will cost the trucking industry about $320 million between now and July 1.

The group released a letter it wrote to FMCSA in which it criticizes the agency's recent rejection of ATA's request to delay implementation of hours-of-service regulations scheduled to take effect July 1.

ATA wrote that the rule’s implementation - in the face of legal uncertainty because of ATA's pending suit against FMCSA over several of the rule’s provisions - would lead to costs that “will have been irrevocably squandered” should the court agree with ATA, either in whole or in part.

"At a time of rising diesel prices, increased equipment and labor costs, the decision by the head of FMCSA to reject a reasonable request for a brief delay in enforcing this rule is unbelievable," ATA President Bill Graves said in a statement.

In its letter, written by ATA General Counsel Prasad Sharma to FMCSA Chief Counsel Scott Darling, the group said that “FMCSA contrived an analysis under an inapplicable test to critique the sufficiency of ATA's request.

"Despite a record of adverse decisions based on past [HOS] litigation, FMCSA is willing to risk wasting significant training resources - some of it taxpayer money used to train both agency staff and the state enforcement community," the letter stated.

In a lawsuit filed in February 2012, ATA asked the Court of Appeals for the District of Columbia Circuit to overturn the changes, saying the agency overstated the role fatigue plays in truck crashes and that the new rule is too restrictive.

Oral arguments before the appeals court are scheduled for March 15. ▲

~ Transport Topics ~

EPA Proposes Cellulosic Biofuel Mandate

The Environmental Protection Agency proposed a cellulosic biofuel mandate Jan. 31 that it said complies with a court ruling that overturned its previous methodology for the mandate.

Under the proposal, fuel refiners would have to blend 14 million gallons of cellulosic biofuel into diesel and gasoline this year. An appeals court threw out EPA's 2012 mandate of 500 million gallons on Jan. 25, saying the methodology it used was overly optimistic about the amount of the fuel that is produced each year.

Cellulosic biofuel is made from wood biomass materials and can be used as diesel or gasoline. ▲

~ Transport Topics ~
AAMVA Posts Court Cases

The American Association of Motor Vehicle Administrators now has a page on its website where it posts court cases related to driver’s licenses, vehicle registration, and other issues that fall within the purview of state and provincial motor vehicle agencies. See here: http://www.aamva.org/Court-Cases/. For more information, or if you know of a case that ought to be posted there too, contact AAMVA’s Cian Cashin at ccashin@aamva.org.

Oilfield Registration Problems Appear

At the recent IRP/IFTA Audit Workshop, there was discussion of a growing problem in the area of vehicle registration regarding the migration of trucks and drivers to newly opened oil and gas fields in the East and Great Plains. Although trucks and drivers may remain in the oil or gas fields for several years, they do not intend to remain there permanently, and form no domicile in those places. When it comes time to renew a vehicle registration, the operator of a single truck, who has not returned home for a year or more, may find that he has nowhere in which to base for purposes of registration under the International Registration Plan. The Plan not only requires that a registrant have an established place of business in his base state (or, failing that, at least be a resident of that state), but that his vehicle or vehicles accrue some miles there. A growing number of small carrier operations, we understand, may be finding themselves in such a difficulty. Some authorities recommend that such a driver take his truck home at least once every year, in order to keep his base, but this is not always practical. It might also be suggested in some instances that a full plate be purchased for the truck in its new location, but this may be impractical too if the oilfield stretches across state lines. The problems here seem likely to grow and worsen as time goes on.

ATA Responds to Congressional Inquiry From Bicameral Task Force on Climate Change

On Feb. 20, ATA filed its response to the Bicameral Task Force on Climate Change co-chaired by Senator Whitehouse (D-RI) and Congressman Waxman (D-CA). The task force requested ATA and other stakeholders provide ideas for actions the federal government could take to address climate change using either current regulatory or legislative authorities.

In its response, ATA shared information on the great strides trucking has made over the years to reduce its emissions and carbon footprint through cleaner fuels, advanced engine technologies, and fuel efficiency improvements.

Recommendations to the task force parallel key issues the industry currently supports including: lowering vehicle speeds; reducing highway congestion; advancing the use of more productive vehicles; dedicating more monies for truck research; increasing funding for EPA’s SmartWay Transport Partnership program; and removing hurdles for increased use of natural gas vehicles in the industry.

A copy of the letter may be obtained at http://www.trucking.org/AdvIssues/Litigation/Documents/Waxman%20Whitehouse%20Ltr%202013.pdf.

Guide to Preventing Premature Corrosion Now Available

New from ATA’s Technology & Maintenance Council (TMC), the Corrosion: Complaint Cause and Correction manual is intended to serve as a comprehensive resource that addresses various aspects of vehicle corrosion.

This document provides users a practical guide for better understanding proper procedures and guidelines for selecting, servicing, and maintaining commercial vehicles so as to minimize premature corrosion during the useful service life of the vehicle.

The manual is based on material compiled from various TMC recommended practices, position papers and technical presentations. Appendix includes a Corrosion Solutions Provider Directory of TMC member companies who report offering various solutions to address component and vehicle corrosion.

For more information or to order, visit http://www.atabusinesssolutions.com/Default.aspx?TabID=274&ProductID=1236095.

FMCSA to Hold Another Entry Level Driver Training Listening Session

The Federal Motor Carrier Safety Administration will hold a listening session on the issue of entry-level driver training next month. The session will be held on Friday, March 22, from 1-5 p.m., ET at the Kentucky Exposition Center, in Louisville, KY in conjunction with the Mid-America Trucking Show (MATS).

Members of ATA’s Road Team will be in attendance to offer their views on factors FMCSA should consider in moving forward with a future rulemaking on this issue. Members attending the MATS with an interest in entry-level driver training requirements are encouraged to speak at the listening session.

ATA stands prepared to help with talking points for those who are interested. Contact Boyd Stephenson at bstephenson@trucking.org.

ATA Conducts New Salaried Employee Survey

For the first time since 2001, ATA is conducting a Salaried Employee Survey of ATA Motor Carrier and Private Carrier Member companies. The first 200 members to complete the survey and send the results back will receive a complimentary final report.

This effort will allow ATA to report aggregated results for salaries within the industry.

Any companies interested in participating should send an email to mlabbe@mlabbe.com.

Anyone with questions should contact ATA’s Economics Department at econdept@trucking.org or (703) 838-1799.

Later this year, ATA will conduct a new Driver Compensation Study.
AZ Addresses Consolidated Returns

The Arizona Department of Revenue has issued a couple of “substantive policy statements” - which the agency warns are advisory only - concerning consolidated corporate income tax returns. AZ allows but does not require a group of corporate affiliates that files a consolidated federal return to elect to file one at the state level as well. Once such an election is made, however, the group must continue to file that way unless the department approves a change. Among the features of consolidated filing is that it confers joint and several liability for the group’s tax liability on each member of the group. If a member of the group is sold or ceases business, the group is still liable for past liabilities subsequently assessed on that member. The department also says that if the group operates interstate, a single apportionment formula is to apply to the entire group. Corporate Income Tax Rulings CTR 12-1, 12-2, issued Dec. 20, 2012

See here: http://www.azdor.gov/LegalResearch/Rulings.aspx ▲

~ State Laws Newsletter ~

CARB Reporting Reminder

Please remember that CARB’s Truck and Bus Rule and Tractor-Trailer Greenhouse Gas Regulation have both annual and ongoing reporting requirements, especially for fleets taking advantage of rule exemptions.

California Trucking Association staff has prepared the following chart as a reminder of what information must be reported annually and what information must be reported on an ongoing basis.

To find the reporting requirements online, go to: http://files.caltrux.org/files/CARB_Reporting_Requirements.pdf ▲

~ State Laws Newsletter ~

CO Issues New Valuation Chart

Like a number of other states, Colorado collects an in-lieu tax as part of vehicle registration under the International Registration Plan. Colorado’s “specific ownership tax” is based on the manufacturer’s suggested retail price of a vehicle, depreciated for the vehicle’s age. Where an MSRP is not available, CO requires the use of a chart of what terms average vehicle valuations. This is issued every year by the state’s department of revenue, and is furnished to the other IRP states. The 2013 version is out, and may be consulted at IRP’s website: www.irponline.org. For more information, call the department at 303-205-5670. ▲

~ State Laws Newsletter ~

FL Court Holds Post-Warranty Repairs Exempt

The Florida District Court of Appeal has held that parts and repairs provided free of charge to vehicle owners by a vehicle manufacturer after the manufacturer’s base warranty had expired were exempt from sales and use tax. The taxpayer here was General Motors. Its ordinary warranty on a vehicle expired after a specified number of years or miles after purchase. Parts and repair labor (both generally subject to Florida’s sales tax) provided under that warranty were exempt because warranty costs were figured into the original purchase price of a vehicle. Even after the expiration of a warranty, however, GM allowed its dealers to assess, case by case, customers’ claims for repairs owing to defects in materials or workmanship, and to provide free repairs as justified, for which GM would reimburse them. This post-warranty program was significant enough in size that GM formed reserves to cover its expense, and the cost of the program entered into the determination of vehicle prices. When Florida assessed sales tax on these post-warranty parts and repairs, GM argued that this amounted to double taxation, which is against state law. The court agreed, saying that GM’s customers paid enough up front to cover the expenses involved in the post-warranty program. While GM’s program was to some extent discretionary, what was not discretionary was GM’s obligation to its customers – a “goodwill obligation” – to act reasonably on customers’ complaints. Department of Revenue v. General Motors LLC, docket no. 1D12-784, decided December 5, 2012 ▲

~ State Laws Newsletter ~

FL Increases Trip Permit Times & Weight Limits for Container Cargo

Sunshine State News reports that “in an effort to reduce paperwork for truckers while making Florida’s ports more enticing to those shipping globally, Governor Rick Scott announced regulations were being cut to help move cargo through the Sunshine State.

On Thursday, the governor’s office announced a series of administrative rule changes by the Florida Department of Transportation that are hoped to bring more trade through Florida’s ports.

The changes would increase the amount permitted in a sealed truck container, putting the load at the same weight allowed in neighboring states, according to the governor’s office. FDOT Secretary Ananth Prasad stated the rules would improve the flow of freight and make Florida more competitive.

The administrative rule changes include:

• Streamlining the permitting process for applicants;
• Providing the same level of service to both trip and blanket permit applicants by eliminating the requirement for trip permit applicants to submit a height survey letter prior to obtaining a permit for vehicles up to 18 feet in height;
• Increasing the number of days for which a trip permit is valid, from five days to seven days;
• Increasing the maximum gross vehicle weight allowed for sealed containerized cargo units from 95,000 pounds to 100,000 pounds; and
• Reducing the number and/or type of escorts required when traveling on a limited access facility. ▲

~ State Laws Newsletter ~

Cook County Imposes Use Tax

Cook County, Illinois, where Chicago is situated, has enacted a tax as a part of this year’s budget. The tax is scheduled to go into effect April 1, 2013. In theory, a use tax of this sort is a complement to a sales tax, and falls on property purchased outside the jurisdiction for use inside it. However, the rate of the new county tax is 1.25 percent, while the county’s corresponding sales tax, already in effect, is lower, at 0.75 percent. In addition, property purchased outside the county and used in Chicago will be subject to both the county and city use taxes. These factors suggest the new tax may be a violation of the Commerce Clause of the U.S. Constitution. Finally, the constitution and laws of Illinois prohibit a home rule county, such as Cook, from imposing a use tax. To our knowledge, though, no challenge to the validity of the tax is pending at this point. Interstate motor carrier rolling stock will be exempt from the tax, but other property used by trucking companies in the county could be taxable. ▲

~ State Laws Newsletter ~
Lighting Failures Cause Problems in Michigan

Hundreds of lights along southeast Michigan freeways are not working because of aging infrastructure, copper thieves and a lack of money for replacements, according to the Michigan Department of Transportation.

About 20% of the roughly 5,500 lights on poles that the department is responsible for along freeways in Wayne, Oakland, Macomb and St. Clair counties are dark, recent reports in The Detroit News revealed.

Some utility poles have been weakened by rust from decades of road salt, high winds, damaged barrier walls or crashes, said MDOT spokesman Rob Morosi.

Copper thieves also are to blame for some outages, he said.

"It's not like the copper thieves are running out onto the freeway and stealing copper from the poles to sell at scrap yards," Morosi said. "Instead, they are attacking the transformer cabinets, many of which are actually located on the service drives."

“We are taking measures to try to keep the cabinets safe and secure, but for every move we make, the thieves come up with a counter-move," he added.

MDOT has identified the area around Interstate 94, east of I-75, as one of the worst areas hit by the thieves.

Michigan transportation department electricians are working constantly on the lighting problem, Morosi said. ▲

~ Transport Topics ~

MO Rules Packaging Exempt

The Missouri Department of Revenue has issued a ruling to the effect that a trucking company's purchase of packaging materials and supplies was not subject to the state sales tax. The taxpayer here was primarily a trucking company, but also provided its customers with warehousing and what were described only as packaging services. Its customers were "distributors and retailers." The materials were described only as cardboard boxes and lids and liners for the boxes. It was specified that when these materials were transferred to the taxpayer's customers, it retained no title or ownership in them. The department concluded that in these circumstances the taxpayer's purchases were exempt purchases for resale. Ruling LR 7163, issued November 7, 2012, and available here: http://dor.mo.gov/rulings/show.php?num=7163 ▲

~ State Laws Newsletter ~

I-64 Interchange Reconstruction in St. Louis

Construction in the Tower Grove area of St. Louis will affect Interstate 64 travelers for several months. I-64 will close completely in the area when overhead bridges are removed and travel lanes will shrink to 10-feet wide in the construction area. Commercial drivers are encouraged to use I-70 or I-44 if possible. Learn more about the project by visiting http://www.modot.org/stlouis/major_projects/TowerGrovelnterchange.htm. ▲

~ State Laws Newsletter ~

Seat-Belt Bill Raising Fines Gains in Missouri

A long-running proposal to raise Missouri's fines for seat-belt violations has gained support from police, doctors, truckers, insurers and – perhaps most important – the chairman of a committee where the plan has died the past three years.

The legislation by Sen. Joe Keaney would raise the fine for people caught not wearing seat belts in vehicles from $10 to $50. The Missouri State Medical Association and the Missouri Trucking Association support the legislation.

The percentage of people using seat belts in Missouri lags behind the national average, and Keaney said he hopes a higher fine would encourage more people to buckle up, particularly teenagers.

This marks the fourth straight year that Keaney has proposed an increase in the seat-belt fine. In 2010, the Senate transportation panel never voted on the bill, in 2011 it rejected the bill, and last year the legislation never even got a hearing in the committee.

But the former head of the transportation committee, Sen. Bill Stouffer, R-Napton, left the legislation because of term limits. The new Senate transportation committee chairman is Sen. Mike Kehoe, R-Jefferson City, who is a former member of the Missouri Highways and Transportation Commission, the entity that oversees Missouri's highway department. The agency has long had a goal of decreasing highway fatalities.

Kehoe said he would like this year's seat-belt legislation to advance to the full Senate.

Under current Missouri law, police cannot pull people over for not wearing seat-belts. But police can issue tickets for seat-belt violations after first stopping motorists for other infractions. Keaveny's bill would not change that requirement. ▲

~ Transport Topics ~

Help Plan the Future of Kansas City's I-70 & US 54 Champ Clark Bridge at Louisiana, Mo

Interstate 70 in the Kansas City area and the US 54 Mississippi River Bridge at Louisiana, Mo., need MoDOT's attention in the next few years. MoDOT wants your ideas, suggestions, complaints and stories to help determine their plan of action. Visit the project websites to have your say:

Kansas City's I-70 - http://www.metro70.com/

~ State Laws Newsletter ~

OH Court Rules Local Tax Preempted

The Ohio Court of Appeals has held that state law preempted the imposition of a local tax on a motor carrier. The tax was a net profits tax levied by an Ohio village. Although the terms of the tax ordinance did not exempt the carrier, the carrier argued that state law and the regulations of the Ohio Public Utilities Commission (PUC) served to preempt it from all local taxes in Ohio except general property taxes. The Ohio Board of Tax Appeals, an administrative agency, ruled that state law was clear that the carrier was owed the preemption. The appeals court also held that the law was plain: payment of the state's PUC fees conferred the exemption. Panther II Transportation, Inc. v. Village of Seville Bd. of Income Tax Review, et al., docket nos. 11CA0092-M and 11CA0093-M, decided August 6, 2012. The village appealed further, to the Ohio Supreme Court, which denied certiorari on January 23, 2013. The Ohio Trucking Association filed an amicus brief with the state supreme court on behalf of the carrier. ▲

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