



## New Members

### American Trailer & Storage Inc.

6900 East 39th Street  
Kansas City, MO 64129  
Mr. Dale Martens  
(816) 765-7771

### First Capitol Courier Inc.

3711 Mueller Road  
St. Charles, MO 63301  
Mr. Jerry Bogle  
(636) 946-9775

### R L Hannah & Sons Trucking

28110 Southwest Outer Road  
Harrisonville, MO 64701  
Ms. Sharon Green  
(816) 380-4510

### Truck & Equipment of KC Inc.

3310 South Outerbelt Road  
Grain Valley, MO 64029  
Mr. Colin Riordan  
(816) 847-1444

MoTA

## 2011 Annual Convention September 28, 29 & 30

Hilton Branson  
Convention Center  
Branson, MO

To Register, go to:

[www.motrucking.org](http://www.motrucking.org)

**Hotel Reservation Deadline:  
September 1<sup>st</sup>**

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## President's Message

Normally this month we reserve this space to exclusively highlight our upcoming Annual Convention. You can still find information on our Annual Convention on page ten, but I wanted to highlight two additional important topics.

First, I want to express a heartfelt THANK YOU to the membership for your phenomenal continued support of the recovery efforts in Joplin. The general public does not have any idea about the level of support the trucking industry provides during times of disaster. Even as an industry, it is overwhelming when you try to catalog just our membership and their activities in response and in support of Joplin.

As an example of the heart of this industry, we received a call at the MoTA office a few weeks ago inquiring about getting a donation of new shoes to the Joplin school district in time for the back to school events. The person/church making the donation had been referred to MoTA by the Arizona Trucking Association to see if we could help. We vetted the information and issued an email blast to our membership requesting assistance for this donation. Within 15 minutes, we had our first response from a member saying they may be able to help. By the next day, we had a number of carriers volunteering to help and had already "booked the load" to be picked up in Arizona that weekend and delivered to the Joplin school district that next Monday.

Another example of the generosity of the trucking industry can be shown by our collection of money at this year's Truck Driving Championships. After having to move our TDC to Springfield at the last minute, our Safety Council decided to hold a special event to raise funds for Joplin. Instead of the normal Friday evening when companies take their drivers out separately for dinner, a BBQ dinner was organized at the Convention Center (donated by University Plaza), and cooked by the Shriners (who donated their time). Most companies with contestants sponsored their drivers at the BBQ, and drivers were given an opportunity to donate funds as well. All told, 325 dinners were served that evening and over \$13,000 was raised at the TDC for Joplin. After many inquiries of carriers in the Joplin area about how to best use the money, and after an offer by a member to "round up the contribution," when the contribution is made later this month, \$15,000 will be donated to the Joplin school district.

Second, I want to encourage members to consider serving on the Board of Directors. At our June meeting, the Board and Executive Committee expressed a desire to attract new members to apply to become members of the Board of Directors. With the downturn in the economy, we have some openings for positions on the Board. Either a member of the Executive Committee or I will contact current members of the Board about their desire to continue to serve on the Board of Directors. If you have any interest in serving on the Board, please contact a member of the Executive Committee or me to apply.

Finally, make plans to attend the Annual Convention at the Branson Landing. My former colleague, FMCSA Administrator Anne Ferro, is confirmed to speak on Thursday. From CSA to HOS to EOBR to Mexican trucks to CDL/medical card merger, to the medical review board, to Data Q challenges, to . . . you get the idea. If you are in trucking, Ms. Ferro runs the agency that issues the alphabet soup of programs that you comply with everyday. And the ones you will work on tomorrow. This year's Convention is a great opportunity to have your questions addressed directly by Administrator Ferro. Don't miss this opportunity - Sign up Today!

***An agenda for this year's convention  
can be found on page ten of this newsletter  
and on MoTA's website.***

## Approved Five-Year Highway Construction Program Cut in Half

Though the future is bleak for the state's transportation funding, a new state five-year highway construction program was approved by the Missouri Highways and Transportation Commission. But the new program is only half the size of recent years - about \$600 million a year rather than the average of \$1.2 billion. There's barely enough money to take care of the existing system, and Missourians will see very few new projects during the next few years that expand the system and make it safer.

"We've known this grim situation was coming," said Kevin Keith, Missouri Department of Transportation director, "We have fallen off a cliff.

"This sharp decline in funds means the investment that has supported Missouri jobs, improved our roads and bridges and increased safety is in jeopardy," said Keith. "We will continue to honor our commitments and maintain the condition of our roads and bridges to the best of our ability for as long as we can, but without additional resources our system will eventually get worse."

Moving forward, the state's transportation department will reach the point where it will not have enough state revenue to match federal funding, and that will mean Missouri will lose millions of dollars for transportation projects. The federal government allocates funding to states using a formula that requires states to match a percentage of the money.

To cope with this funding challenge, MoDOT is focusing on delivering commitments promised Missouri citizens - keeping major highways in good condition, improving smaller state roads and keeping pace with needed bridge repairs and maintenance. Through the Bolder Five-Year Direction the department is cutting internal costs and directing all available resources to taking care of existing roads and bridges.

"These cost savings are just a temporary fix, they do not solve our funding situation in the long term," said Keith. "There are consequences to operating with insufficient funds. It means the department will not be able to address economic development opportunities, deliver corridor improvements or replace major bridges."

The 2012-2016 Statewide Transportation Improvement Program lists transportation projects planned by state and regional planning agencies for fiscal years 2012 through 2016 (July 1, 2011 - June 30, 2016). A copy is available at <http://www.modot.mo.gov/>. ▲

### National Truck Driver Appreciation Week September 11 - 17, 2011

During the week of September 11 - 17, America takes the time to honor all professional truck drivers for their hard work and commitment in tackling one of our economy's most demanding and important jobs.

National Truck Driver Appreciation Week is the perfect time to show your drivers how much you appreciate their hard work, commitment and safe driving. The American Trucking Associations has a wide variety of gifts for your drivers. Go to <http://www.atabusinesssolutions.com/s-28--national-truck-driver-appreciation-week-gifts.aspx> to view the choices that are available.

Join us in celebrating the men and women across the country who work hard every day to deliver life's essentials.



### Governor Nixon Calls for Special Legislative Session

At the end of the 2011 regular session, a bill containing many provisions thought to spur economic development and create jobs died because an agreement could not be reached on tax credit reform. A contingent of Missouri Senators believe the state hands out too many tax credits to people who either don't need or deserve them. The Governor has indicated there will be a special session this fall, but at this time no specific date had been selected. It is thought by most political insiders that "the call" will coincide with veto session which is the second full week in September.

Only items specifically named in the Governor's call can be discussed during the special session and he has mentioned what items will probably be included. Those items consist of several economic development tools like tax credits for Aerotropolis (politically correct term for the China Hub), incentives for science and technology companies (Biotech), computer based data storage centers and big time amateur sporting events. In order to avoid the same issues that arose during the regular session, there are sure to be concessions on tax credit reform. Many programs will be eliminated all together and others will have caps placed on them to limit the amount that can be used on an annual basis.

MoTA will be present at the Capitol to make sure that the interests of the trucking industry are being taken into consideration. It is quite possible that some of these items could have a direct impact on MoTA members' businesses. As we get closer to the special session and when the Governor makes the official call, MoTA will make sure the membership has all the pertinent information.

## MISSOURIMemo

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### Member Cancellations July 2011

Name of Company	Class	Dues
Carroll-Rehma Motors Inc.	Allied	\$200.00
T & S Carriers Inc.	For Hire	\$412.50



## Pre-Employment Screening Program Has 380,000 Searches during First Year

Commercial carriers and truck drivers conducted 380,000 pre-employment driver safety record searches during the first year of a new, secure online search program, the Federal Motor Carrier Safety Administration (FMCSA) announced on May 23. FMCSA started the Pre-Employment Screening Program (PSP) in May 2010 to provide access to drivers' inspection and crash records during the hiring process. During its first year, 353,929 users visited the PSP website, and PSP customer service responded to more than 19,000 calls.

"These results show that carriers welcome PSP as an essential tool for making informed hiring decisions that lead to safer drivers on our roads," said FMCSA Administrator Anne Ferro. "We know that the majority of our nation's carriers and drivers strive to operate as safely as possible. PSP makes their jobs a lot easier."

PSP provides access for up to five years of driver crash data and three years of inspection data, which includes serious safety violations in the areas of unsafe driving, hours-of-service, controlled substances and alcohol, and valid medical qualifications. It also gives users access to co-driver safety records, post-crash violations and the dates that drivers' records are updated.

By using driver safety information during pre-employment screening, carriers can better assess the potential safety risks of prospective driver-employees. PSP also provides drivers additional opportunities to verify the data in their driving history and correct any discrepancies. Drivers' records will be protected in accordance with federal privacy laws. The PSP data is updated monthly by FMCSA's Motor Carrier Management Information System (MCMIS). The MCMIS is comprised of driver performance data including inspection and compliance review results, enforcement data, state-reported crashes, and motor carrier census data.

Go to <http://www.psp.fmcsa.dot.gov/Pages/default.aspx> for complete details on the Pre-Employment Screening Program's fees for driver safety records and how carriers and drivers can participate. ▲

## FMCSA Panel to Look at CSA Issues

The Federal Motor Carrier Safety Administration has asked its advisory committee to examine concerns about the Compliance, Safety, Accountability program's roadside violation severity weightings.

At a meeting this month, FMCSA officials asked members of the Motor Carrier Safety Advisory Committee to make sure that CSA severity weights the agency assigns to certain violations is an accurate predictor of a motor carrier's crash risk.

Specifically, FMCSA asked the committee to determine if the individual roadside violations are in the correct violation grouping, and to rank each violation group in the Behavior Analysis and Safety Improvement Categories, or BASICs, in priority of crash risk.

Then using the priority rankings, FMCSA wants the committee to evaluate the likely crash risk associated with each violation grouping, ranking them as high, medium or low.

The committee is expected to report back to the agency by the end of August, said David Parker, the committee's chairman. ▲

~ Transport Topics ~

## IRP Bus Ballot Fails

A proposed amendment to the International Registration Plan, which would have required interstate charter buses to be IRP-registered failed to pass. ▲

## FMCSA Issues Regulatory Guidance on Tillermen as CMV Drivers

The U.S. DOT's Federal Motor Carrier Safety Administration (FMCSA) has issued revised regulatory guidance on the designation of steerable rear axle operators (tillermen) as drivers of commercial motor vehicles as follows:

### Section 383.3, "Applicability."

**Question 34:** *Would a tillerman, a person exercising control over the steerable rear axle(s) on a commercial motor vehicle (CMV), be considered a driver or "person who operates a [CMV]" (Sec. 383.3), and thus subject to applicable commercial driver's license regulations?*

**Guidance:** *A person physically located on the rear of the CMV who controls a steerable rear axle while the CMV is moving at highway speeds would be considered a "person who operates a commercial motor vehicle" (Sec. 383.3), and would therefore be subject to the applicable commercial driver's license regulations in 49 CFR part 383. A person walking beside a CMV or riding in an escort car while controlling a steerable rear axle at slow speeds would not be considered a "person who operates a [CMV]" (Sec. 383.3), and therefore would not be subject to applicable commercial driver's license regulations."*

### Section 390.5, "Definitions."

**Question 14:** *Would a tillerman, a person exercising control over the steerable rear axle(s) on a commercial motor vehicle (CMV), be considered a driver as defined in Sec. 390.5, and thus subject to 49 CFR Parts 390 to 399?*

**Guidance:** *A person physically located on the rear of the CMV who controls a steerable rear axle while the CMV is moving at highway speeds would be considered a driver as defined in Sec. 390.5 and therefore would be subject to the regulations in 49 CFR parts 390-399.*

*A person walking beside a CMV or riding in an escort car while controlling a steerable rear axle at slow speeds would not be considered a driver as defined in Sec. 390.5 and would therefore not be subject to 49 CFR Parts 390 to 399."*

The effective Date of this regulatory guidance is June 6, 2011. The notice of the guidance appeared in the June 6, 2011 *Federal Register* and may be accessed on line at <http://www.gpo.gov/fdsys/pkg/FR-2011-06-06/pdf/2011-13902.pdf>. ▲



## Federal Court Upholds State Anti-Indemnification Law

The federal District Court for the Northern District of Indiana has dismissed an indemnification claim against a motor carrier because the contractual provision on which the claim was based was void and unenforceable under Indiana's motor carrier anti-indemnification statute enacted in 2006. The claim was brought by a shipper against a carrier in connection with the injury of a truck driver employed by the carrier's subcontractor.

There was no claim of negligence on the part of the carrier; the indemnity claim was based entirely on the provision in the contract between the shipper and carrier that made the carrier liable for any damages that resulted from its performance under the contract.

The carrier moved for dismissal on the ground that because of Indiana's anti-indemnification statute the shipper had failed to state a claim upon which relief could be granted.

The court analyzed the statute, found that the case involved none of the statutory exceptions, and held that the law rendered the contractual provision that shifted liability for the shipper's own negligence void for public policy.

Although 29 states now have anti-indemnification statutes similar to that in this case, this seems to be the first instance in which a court has specifically upheld the effectiveness of such a law. The case may be cited as *Ruiz v. Carmeuse Lime, Inc.*, 2011 WL 2534837 (N.D. Ind. June 23, 2011). ▲

~ Truckline ~

## FMCSA Proposes NPRM to Clarify Drug and Alcohol Requirements

On July 8, FMCSA published a *Notice of Proposed Rulemaking* that would clarify FMCSA's drug and alcohol testing regulations for drivers, medical practitioners, and employers. First, the NPRM would harmonize DOT-wide drug regulations and DEA regulations with the FMCSRs to prohibit drivers from using Schedule I drugs, even if those drugs were recommended by a licensed medical practitioner. Second, the proposal would update Section 382.211 to include a DOT-wide regulation that requires drivers who refuse to submit to pre-employment or return-to-duty test to complete a prescribed return-to-duty process (SAP). Finally, the NPRM would clarify Sections 382.201 and 382.215 that currently state that an employer may not allow an employee to perform safety-sensitive functions if the employer has "actual knowledge" to just "knowledge" of an employee that has tested positive for drugs or has an alcohol concentration of .04 or greater. Comments on the NPRM are due September 6, 2011. ▲

## Drug Testing Advisory Board Recommendations

On July 13, the Department of Health and Human Services' (HHS) Drug Testing Advisory Board (DTAB) unanimously recommended that HHS begin the process of developing guidelines for the use of oral fluid (e.g., saliva) as a drug testing specimen alternative to urine. While oral fluid testing has been "fast tracked" by DTAB, the board has yet to investigate hair testing as an alternative. The board also unanimously recommended adding four additional drugs to the Federal Workplace Drug Testing Program: Oxycodone (OxyContin), Oxymorphone (Opana, Numorphan, Numorphone), Hydrocodone, and Hydromorphone (Palladone and Dilaudid). HHS must conduct a rulemaking to implement these recommendations. ▲

## Fatigue Studies Flawed, Groups Tell FMCSA

Trucker and shipper organizations unanimously told federal regulators last month that four new driver-fatigue studies introduced into the public record in May are flawed and do not support changes called for in a proposed federal hours-of-service rule.

Two of the new studies focused on truck driver fatigue, and two dealt with intrastate bus driver fatigue in Florida.

The Florida bus driver fatigue studies were largely discounted by the comment makers because intrastate bus drivers' hours-of-service and rest-period rules widely differ.

In comments to FMCSA, the Owner-Operator Independent Drivers Association said the studies "add little to the debate" over the agency's proposed hours-of-service rule.

American Trucking Associations, which commissioned a detailed critique of the studies, called into question their validity.

ATA's reviewer, Ron Knipling, criticized the truck driver fatigue study done by researchers at the Thomas D. Larson Pennsylvania Transportation Institute at Pennsylvania State University. "It would be erroneous and unwarranted to accept Penn State's principal findings and conclusions without extensive re-analysis, internal validation and external replication," said Knipling, a truck and road safety researcher and consultant who once headed FMCSA's research division.

Regarding a truck driver fatigue study by researchers at the Virginia Tech Transportation Institute, Knipling concluded that "more probing and self-challenging analyses" must be performed before the study's findings can be "accepted as sound science."

Knipling questioned the findings of the Florida bus driver studies, saying, "The significant differences between Florida's transit bus operator work (hours-of-service) rules and those for interstate truck drivers render schedule-related research findings from one largely inapplicable to the other."

Knipling also noted that the risk for all types of truck crashes increased during daytime driving, which was "consistent with increased exposure."

The National Industrial Transportation League also said the studies do not support a new hours-of-service rule.

"None of the studies that the administration has added to the docket indicate that the proposed HOS rules will increase safety," NITL said. "Further, two of the studies use an irrelevant data source and a third overlooks the proximate causes of crashes."

"The Pennsylvania State University study suffers from critical analysis flaws," NITL wrote. "It implies that fatigue causes the crash risk to generally increase with each driving hour, but makes no attempt to verify that the underlying crashes were caused by fatigue."

The Virginia Tech study "fails to validate its conclusions that the increased crash risk over a 14-hour duty period or after a rest period is a matter of driver fatigue," NITL said.

The National Association of Small Trucking Companies said the four studies do not establish a factual or scientific basis for changing the current hours-of-service requirements for over-the-road truckers, nor do they contain current fatigue-management data.

"The agency should allow private industry to propose and conduct pilot programs aimed at measuring fatigue, not hours of service, and allowing reasonable driver flexibility to get miles and get home," NASTC said.

Joint comments by Nasstrac and the Health and Personal Care Logistics Conference said none of the studies acknowledge that FMCSA is implementing its Compliance, Safety, Accountability



program or that the agency is dramatically increasing the use of electronic logging devices, steps that would make the industry safer.

"Moreover, the new studies focus on small samples of drivers but ignore the clear trend toward fewer crashes and fatalities shown by DOT's own statistics as to the larger universe of truck drivers operating nationwide since 2004, when the current hours-of-service rules became effective," the two groups said. ▲

~ *Transport Topics* ~

## FMCSA Alerts Carriers to Aggressive Marketing Attempts

In recent weeks, the FMCSA has received numerous inquiries regarding companies using aggressive marketing tactics to sell supervisor training to employers who may be subject to the Federal Motor Carrier Safety Administration's drug and alcohol testing requirements. Please note that the FMCSA is not familiar with these companies or the training they are offering.

49 CFR §382.603 requires supervisors of CDL drivers to take 60 minutes of training on the symptoms of alcohol abuse and another 60 minutes of training on the symptoms of controlled substances use. The purpose is to qualify supervisors for determining when reasonable suspicion testing is needed. The FMCSA does not certify trainers or training companies, nor does it pre-approve the curriculum presented.

Employers are responsible for meeting the training requirement of 49 CFR §382.603 including ensuring that any training company/entity that they purchase training from provides training in the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances. It is up to the employer to select which training to attend, keeping in mind the aforementioned guidelines. ▲

## IRS Extends Highway-Use Tax Deadline to Nov. 30

The Internal Revenue Service is advising truckers and other owners of heavy highway vehicles that their next federal highway use tax return, normally due Aug. 31, will instead be due Nov. 30.

Under proposed regulations spelled out by the IRS in a July 15 press release, the revised filing deadline for Form 2290, the Heavy Highway Vehicle Use Tax Return, for the tax period beginning July 1, applies to vehicles used during July.

Because the highway use tax is set to expire on Sept. 30, this extension should clear up any confusion and avoid multiple filings if Congress reinstates or modifies the tax after that date, the IRS said.

**It will also apply to trucks used during August or September. Returns should not be filed and payments should not be made before Nov. 1, the IRS said.**

To help truckers applying for state vehicle registration on or before Nov. 30, the new regulations require states to accept as proof of payment the stamped Schedule 1 of the Form 2290 issued by the IRS for the prior tax year ended June 30. For new or used vehicles that carriers have bought and are just now being put into service and not previously registered, states are to accept the carrier's bill of sale in lieu of proof of payment.

The tax of up to \$550 per vehicle is based on weight, and a variety of special rules apply to vehicles with minimal road use, logging or agricultural vehicles, vehicles transferred during the year and those first used on the road after July.

Under federal law, states are required to obtain proof of payment of the federal highway use tax before vehicles are registered.

The IRS said that last year it received about 650,000 Forms 2290 and highway use tax payments totaling \$886 million. ▲

~ *Transport Topics* ~



## ATRI Updates Online Idling Regulations Compendium

The American Transportation Research Institute (ATRI) has updated the listing of state and local idling regulations found on its website, [www.atri-online.org](http://www.atri-online.org). The updated listing is provided in two forms, a cab card which can be downloaded and carried in the glove box of a truck and the online compendium which provides links to individual regulations. A copy of the compendium is also located on MoTA's website.

Additions to the listing include:

- The State of Texas has adopted a new exemption which allows trucks with 2008 or newer engines certified to an idling emissions limit of 30 gram NOx per hour to idle. This exemption takes effect immediately.
- A new 5-minute limit has been enacted in the State of Oregon which takes effect on January 1, 2012. Exemptions are provided which allow idling beyond this limit including for air conditioning or heating during a rest or sleep period when the outside temperature is less than 50 degrees or greater than 75 degrees any time during this period. Violations of this limit can result in fines up to \$180.

ATRI continues to monitor the development of idling regulations across the country and maintains the compendium and cab card as a free service to help trucking companies and truck drivers comply with the increasing number of state and local idling regulations. ▲

## New Trend Survey Shows Wages in Flux, Lower Contractor Pay, Aging Driver Corps

American Trucking Associations' latest study of driver trends shows a continued aging of the driver corps, lower pay for independent contractors and a wide variation in wage-increase policies.

Released July 2, the survey is based on 155 participants. It found the average driver age rising to 47 years from 45 in a 2009 ATA report. In addition, ATA's study found that the percentage of revenue that carriers paid to owner-operators to haul fleets' freight fell to 70% in the latest survey, compared with 73% of revenue in its report based on 2007 data.

Fewer than 25% of fleets with revenue less than \$10 million raised pay for national solo employee drivers, but every fleet in the \$10 million to \$50 million revenue category increased driver wages. One-third of fleets with more than \$50 million in revenue boosted pay.

Regional drivers pay was raised by 48% of carriers, compared with 49% in the earlier survey.

“The driver market is tightening,” ATA Chief Economist Bob Costello said. “We hear nearly every day from fleets who cannot find enough drivers to meet demand. In an effort to help motor carriers address this critical need . . . ATA gathered driver-compensation data.”

The report also offers details on how often solo driver pay for fleets was differentiated based on driver tenure.

The survey found 65% of fleets differentiated pay based on tenure, down from 69% in the earlier survey.

However, fleets with under \$10 million in revenue allowed drivers to reach full pay in three years, the new survey found, compared with five years in the earlier report.

Survey data were segmented by regional and national service for both truckload and LTL fleets. Separate data were provided for general freight, flatbed, private, refrigerated and bulk fleets.

Data was gathered about companies’ annual revenue, carrier type, service area, driver corps size, power units and independent contractors, if any.

Driver data included years of experience, training, age, bonuses and benefits information such as holidays, vacation time, home time, retirement plans and medical/dental program offerings.

In addition, the report contains a hiring and retention section that assesses the number of methods used for driver hiring and recruitment costs.

Independent contractor pay levels as well as percentage of revenue also are in the survey, as is information about pay for technicians.

ATA said the study was done through an Internet survey of carriers, each of which had a unique login and password to ensure the data were valid.

More information about the full survey can be obtained through ATA’s Business Solutions unit at 866-821-3468 or at [atabusinesssolutions.com](http://atabusinesssolutions.com). ▲

~ Transport Topics ~

## CVSA’S Roadcheck Results in Lowest Out-of-Service Rates Since Program Began

Results from Roadcheck 2011, the three-day, commercial vehicle safety enforcement and education campaign organized annually by the Commercial Vehicle Safety Alliance (CVSA), reveal that the commercial motor carrier and motor coach industries continue to improve the maintenance and safety of their operations, with overall out-of-service (OOS) rates being the lowest since Roadcheck began in 1991.

“Although overall out-of-service rates are at record lows, there is room for improvement until the roads are free from vehicle and driver violations,” said CVSA’s Executive Director Stephen A. Keppler. “Events that focus on ensuring vehicles and drivers are complying with the law, like Roadcheck and all roadside inspections, draw critical attention to out-of-service rates and are shown to also impact crash reductions.”

Nearly 8,000 CVSA and FMCSA certified inspectors at 2,550 locations across North America performed 70,712 truck and bus inspections in 72 hours. Inspectors focused on the North American Standard (NAS) Level I inspection, motorcoach inspections, hours of service logbooks, and household goods (HHG) carriers.

Once again, hours of service logbook violations lead overwhelmingly as a percentage of all driver violations cited (50.6 percent of all driver out-of-service violations). The hours of service rules are designed to reduce driver fatigue which may be a contributing factor in large truck and bus crashes. Inspectors also queried drivers of their use of electronic logging devices; 14 percent were using them.

An additional emphasis was placed on identifying carriers of household goods (HHG) operating “under-the-radar” by using improperly marked rental vehicles and/or operating as a for-hire property carrier rather than HHG carrier. The twelve states that participated in the HHG focus activity identified 32 carriers that required enforcement action.

During Roadcheck 2011 approximately 16 trucks or buses were inspected, on average, every minute for the 72 hours of the event, from June 7-9, occurring from Canada to Mexico.

Drivers were pulled over or directed into weigh stations or other inspection locations and asked to show their commercial driver’s license, medical examiner’s certificate and record of duty status. Brakes, tires, lights and every major safety component of the truck or bus, plus proper load securement were also examined during Roadcheck. While Roadcheck has taken place every year since 1988, it is important to note that roadside inspections occur every day across North America, to the tune of more than 3.9 million in 2010.

CVSA sponsors Roadcheck each year with the Federal Motor Carrier Safety Administration (FMCSA), Canadian Council of Motor Transport Administrators (CCMTA), Transport Canada, and the Secretariat of Communications and Transportation (Mexico).

“Roadcheck is about law enforcement partners throughout North America working together for greater truck and bus safety,” said FMCSA Administrator Anne S. Ferro. “The fact is, federal, state, and provincial safety inspectors across the continent are on the job every day vigorously enforcing commercial vehicle and driver safety regulations. For all of us, that is our year-round mission and passion.”

Roadcheck data from 2011 show the overall vehicle compliance rate at 80.7 percent (80.0 percent in 2010), with an overall driver compliance rate of 95.8 percent (95.6 percent from last year). For NAS Level I inspections, the compliance rates were up to 77.2 percent for vehicles (76.7 percent in 2010) and 96.3 percent for drivers (unchanged from 2010). In addition, there were 296 fewer safety belt violations in 2011 (863 vs. 1,159 in 2010).

Inspections of passenger carrying vehicles found a vehicle compliance rate of 91.3 percent in 2011 vs. 91.0 percent in 2010. The motorcoach driver compliance rate was 97.4 percent -- in 2010 it was 96.4 percent. Hazardous materials inspections resulted in a vehicle compliance rate of 82.1 percent (83.7 percent in 2010) and driver compliance rate of 97.5 percent (unchanged from previous year). There were 29,609 CVSA Decals issued to vehicles that passed the inspection, up from the number issued in 2010 (26,605). ▲



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## New Law Amends the Alabama Metal Coil Act

As required under the Alabama Metal Coil Act of 2009, the operator of a commercial motor vehicle involved in the transport of metal coils (for shipments originating or terminating in Alabama) must be certified in proper load securement and must carry the certification in the vehicle and produce it on demand to law enforcement personnel.

Governor Bentley recently signed into law Senate Bill 289, which removes the requirement that a driver have in his/her possession a copy of the certificate of training, as administered by the Alabama Dept. of Public Safety, for proper load securement. Instead, state law enforcement officers will rely on access to an electronic data bank showing motor carrier drivers who are certified. This goes into effect immediately.

Alabama Trucking Association officials anticipate a continuation of soft enforcement of the driver certification requirements until a centralized database containing all names of certified drivers is accomplished. ▲

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## Cap-and-Trade Program on Hold in California

A San Francisco Superior Court judge has enjoined the California Air Resources Board (CARB) from engaging in any cap-and-trade program activity until the agency has come into compliance with requirements of the California Environmental Quality Act.

Plaintiffs successfully argued that CARB inadequately described and analyzed alternatives to its proposed cap-and-trade program in its scoping plan to reduce greenhouse gas (GHG) emissions. While a number of other measures are included, the decision only prohibits CARB from acting on the cap-and-trade program. ▲

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## CARB Staff Dismisses Extending TRU Compliance

Staff of the California Air Resources Board (CARB) is not recommending extending the existing 7-year operating life for model year 2004 and newer transport refrigeration units (TRUs). At a recent workshop to discuss changes to their existing TRU regulation, CARB staff cited the potential for increased emissions as the reason for not pursuing this extension. CARB staff is still considering compliance extensions for pre-2004 TRUs that have been brought into compliance under the first phase of the regulation and could be subject to a second compliance requirement. Although nothing is finalized at this point, CARB staff is working to complete a draft revised regulation by early September with an adoption hearing scheduled for October. The workshop slides which summarize the potential changes and the preliminary draft regulatory language are available on [CARB's TRU website](#). ▲

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## CTA Prepares Extensive CARB Guide

The California Trucking Association (CTA) has prepared an extensive compilation of California Air Resource Board (CARB) regulations applicable to both California domiciled trucks and trailers, and, in most cases, to trucks and trailers transiting California from other states, Canada and Mexico. CTA is confident you will find this of use if you have questions about CARB regulations. The document is available on the CTA website - <http://links.caltrux.org/CTACARBGUIDEFINAL72011.pdf>. ▲

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## Last Chance to Register for Trailer Aerodynamics Phase-In

Fleets with 21 or more box-type dry van and/or refrigerated 53-foot or longer trailers that operate in California have until August 1, 2011 to register with the California Air Resources Board (CARB) to phase-in aerodynamic requirements.

Under CARB's Tractor-Trailer Greenhouse Gas Regulation, affected pre-2011 trailers must be brought into compliance with aerodynamic requirements by January 1, 2013 unless a fleet has registered to phase-in compliance. The phase-in option requires 20% of these trailers to be brought into compliance annually beginning January 1, 2012. An advisory is available with more information at <http://www.arb.ca.gov/enf/advs/advs429.pdf>. ▲

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## Illinois Mandates Belts for Everyone

Illinois drivers and passengers need to buckle up because a new law mandates that anyone who drives or rides must comply. It goes into effect January 1, 2012. At the signing, in late June, of HB 219, Gov. Pat Quinn said that the goal is to save as many lives as possible. ▲

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## New Speed Limits Set on Kansas Highways

Kansas set a new 75 mph speed limit on rural stretches of some interstate highways and other freeways effective July 1, its Department of Transportation said in a release. The new limit applies to all vehicles on the highway, though trucks with speed limiters would still travel slower than other highway traffic. ▲

~ Transport Topics ~

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## Maine Eliminates Indexing, Cuts Taxes

By legislation (P.L. Ch. 392) signed into law on June 21, 2011, by Maine Governor LePage, the state has repealed the feature of its tax law that ties the fuel tax rate to the consumer price index. The repeal takes effect next year, too late to stop the latest increase, from 30.7 to 31.2 cents a gallon for diesel fuel, effective July 1. Maine enacted indexing in 2003, when its tax rate was 23 cents. Since then, there have been increases nearly every year, and the rate never went down, even when the CPI did. Maine's action follows Wisconsin's, which eliminated indexing a year ago. In Maine's budget bill (P.L. Ch. 380, signed June 20) both the personal and corporate income taxes were cut, the corporate tax by adopting for state purposes a portion of the enhanced federal bonus depreciation. ▲



## Mississippi Fleets' CSA Scores Jeopardized when Political Dispute Stalls 30,000 Reports

Mississippi officials said a behind-the-scenes political dispute prevented the uploading of about 30,000 commercial motor vehicle roadside inspection reports into the Federal Motor Carrier Safety Administration's database – probably affecting the safety scores of the large number of motor carriers who received state inspections.

The dispute technically ended when officials of the Mississippi Department of Transportation and Department of Public Safety signed an agreement, but the state has barely begun the mammoth task of uploading the huge backlog of about 30,000 inspection reports into FMCSA's database, said Willie Huff, director of the state DOT's Office of Enforcement.

Lt. Donald McCain, program manager for the DPS Motor Carrier Safety Division, said he doesn't know why the prior DPS commissioner decided to stop accepting MDOT inspections, but he said the two agencies now are working together to eliminate the massive inspection backlog that he agrees numbers about 30,000.

"It's not something that's going to happen overnight," McCain said. "It's a lot of electronic data that we've got to filter through to make sure that it's all good quality data to send up." ▲

~ Transport Topics ~

## NE and UT to Dedicate Part of Sales Tax to Roads

Legislation recently enacted in Nebraska and Utah dedicates a portion of those states' sales taxes to their state highway funds for purposes of the roads, according to an article in the May 20 issue of the *State Laws Newsletter*. In Nebraska, the receipts represented by 0.25 cents of the state sales tax rate (totaling 5.5 cents on the dollar) will be dedicated to the highway fund, beginning in 2013 and continuing for 20 years. Initially, the change should amount to an additional \$70 million a year for roads. In Utah, 30 percent of future growth in the state's sales tax revenue will be devoted to transportation. ▲

## New Hampshire to Allow Additional Weight for Vehicles Using Idle Reduction Technology

Truckers who install an auxiliary power or idle reduction technology unit in order to promote reduction of fuel use and emissions because of engine idling will no longer have to worry about the increased weight these devices add to their vehicles. Under House Bill 117, signed by Governor Lynch, up to four hundred pounds of gross, axle, tandem, or bridge formula weight can be exempted if idle reduction technology, such as an auxiliary power unit, is installed on the vehicle.

To qualify, drivers must be able to provide written certification of the units' weight (this would be provided by the manufacturer) and be able to demonstrate that the idle reduction technology is fully functional. The rule becomes effective in New Hampshire January 1, 2012. Similar legislation is already in place in Maine and Connecticut and is pending in Massachusetts. Vermont allows the exemption through enforcement discretion rather than legislation.

For the full text, see <http://www.gencourt.state.nh.us/legislation/2011/HB0117.html>. ▲

## Uniform Traffic Ticket Scam

New York State Police are warning motorists that someone is sending out a fraudulent e-mail claiming to be a uniform traffic ticket.

The ticket looks as if it was issued by state police and sent by the state's Department of Motor Vehicles, but it's not.

Troopers say when people go to open the attached zip file, an unknown virus could be downloaded onto the computer.

State police are currently analyzing what type of virus this might be and are urging people to use anti-virus software and firewalls.

They are also reminding people only to open e-mails from trusted senders, to regularly change passwords, to only visit trusted websites, and to back up important files to external storage. ▲

## New Cell Phone Use Law in Effect in New York

On Tuesday, July 12, New York Governor Andrew Cuomo signed into law legislation that makes use of a handheld electronic device while driving a primary traffic offense, giving law enforcement the power to stop drivers if they observe the driver holding an electronic device while driving. Changes to regulation will also increase the penalty from 2 points to 3 points for cell phone and electronic device usage while driving. The law does not penalize drivers using a handheld device that is affixed to a surface or using a GPS device that is attached to the vehicle. The new law took effect immediately July 12. ▲

## PA Increases Trailer Width Limit on Two Roads

The Pennsylvania Department of Transportation has approved two stretches of state highway for use by wider truck trailers.

Portions of state Routes 641 and 2003 in Cumberland County are now open to trailers up to 102 inches wide. Before the new widths were announced, the roadways near Harrisburg and Interstate 81 were restricted to trailers up to 96 inches wide.

Road widening has allowed for the wider trailers, said Matt Hedge, manager of PennDOT's permit office.

The portion of Route 641 with the new limit is between Routes 696 and 4025. On Route 2003, the limit extends 1.3 miles east from Route 34. ▲

~ Transport Topics ~

## PA Turnpike's Cash Fares to Rise; Commercial Hauler Discount Will End

Cash fares will rise 10% on the Pennsylvania turnpike in 2012, but tolls will remain the same for E-ZPass users.

The turnpike commission, which approved the changes last week, said commercial haulers will no longer receive a 15% volume discount because with E-ZPass they will automatically receive an approximate 17% discount, the commission said.

"As a result, post-paid commercial E-ZPass customers will need to incur \$5,000.00 to \$10,000 of monthly tolls to receive an additional 5% discount and \$10,000.01 or more to receive an additional 10% discount," the commission said.

The toll hike is aimed at generating funds to help pay off bonds for highway improvements and mass transit systems in the state, the Associated Press reported.

The commission said it also plans to increase tolls by 3% in 2013 and 2014, AP said. ▲

~ Transport Topics ~





## Pennsylvania Eliminates Joint & Several Liability

By legislation (S.B. 1131) signed into law by Pennsylvania Governor Corbett on June 28, Pennsylvania has eliminated the doctrine of joint and several liability, the legal doctrine that makes each defendant in a tort suit potentially liable for all the damage involved in the case, even if a given defendant was only very slightly at fault. The elimination of joint and several is one of the primary tort reforms aimed at by ATA's Insurance Task Force. There are a few exceptions to the new rule in Pennsylvania; that is, if a defendant is found liable for intentional harm or fraud, if it is more than 60% at fault, if it is liable for environmental hazards, and if a defendant is civilly liable for drunk driving. These same exceptions were in the law the last time Pennsylvania repealed joint and several, in 2002. Then, however, the state supreme court invalidated the reform for violation of the single-subject rule for legislation. This time, repeal of joint and several was the only object of the bill. ▲

## WI Enacts Motor Carrier Anti-Indemnification

On July 5, Governor Walker of Wisconsin signed into law S.B. 41, which makes provisions in contracts for motor carrier transportation that require the carrier to assume liability for the shipper's negligence void and unenforceable in Wisconsin. The governor signed the bill at the headquarters of Schneider National in Green Bay.

Wisconsin becomes the thirtieth state to enact such legislation, and the fifth this year, following Utah, Arizona, Maine, and Oregon. ▲

~ Truckline ~

## Wisconsin Supreme Court Decides for Employer in Rehiring Case

*deBoer Transportation, Inc. v. Charles Swenson and LIRC*

In this 5-2 decision, the majority affirmed a Court of Appeals opinion reversing a Wood County circuit court order affirming a LIRC order requiring deBoer to pay Swenson more than \$36,000 in back pay for "deBoer's unreasonable refusal to rehire Swenson following a work-related injury. The issue was whether under the worker's compensation law deBoer refused to rehire without reasonable cause.

The majority held in reaching its conclusion, LIRC applied an unreasonable interpretation of s.102.35(3) by concluding deBoer did not show reasonable cause because it failed to adequately explain why it would be an unreasonable burden to change its check-ride policy so Swenson could meet his personal care obligations. The majority said the statute "does not require an employer to change its legitimate and long-standing safety policies in order to assist an employee in meeting personal obligations." The court said by adding that requirement, LIRC contravened the words of the statute.

Justice Bradley, joined by Chief Justice Abrahamson, dissented, said the LIRC finding the asserted reason for refusing to rehire Swenson was pretextual. She concluded there was. ▲

## Convention Reminders . . .

- ★ Make Hotel Reservation ~ Deadline: Sept. 1<sup>st</sup>  
(Room block expires on Sept. 1<sup>st</sup>)
- ★ Register for Convention ~ Deadline: Sept. 21<sup>st</sup>
- ★ Sign up as a Convention Sponsor
- ★ Ladies ~ Register to attend MoTA's "High Tea"  
. . . and don't forget your hat.
- ★ Get your costume ready for MoTA's Costume Party
- ★ Call MoTA office if you have any questions ~ (573) 634-3388



## 74<sup>TH</sup> ANNUAL CONVENTION

September 28-30, 2011

**Hilton Branson Convention Center**

200 East Main Street  
Branson, Missouri 65616

### AGENDA

#### Wednesday, September 28

- 3:00 pm Registration Opens  
5:00 pm Allied Industry Meeting  
5:00 pm Next Generation Leaders' Meeting  
6:00 pm Costume Party

#### Thursday, September 29

- 7:30 am Buffet Breakfast  
8:30 am Guest Speaker ~ Sam Silverstein  
    *"No More Excuses"*  
9:45 am MoTA Membership Meeting  
10:30 - Noon Ladies' Program ~ *High Tea*  
10:45 am General Session ~ Tavio Headley  
    *"Economic Outlook"*  
Noon Luncheon ~ Guest Speaker:  
    Anne Ferro, FMCSA Administrator  
1:45 pm Regulatory Question & Answer ~ Anne Ferro, FMCSA  
2:30 pm Breakout Sessions ~  
    ➢ *Employee or Contractor? The Pitfalls of Misclassification*  
    ➢ *Liability Issues with Shippers, Brokers and Independent Contractors*  
    ➢ *Clean Diesel*  
    ➢ *Employee & Company Health*  
3:30 pm Breakout Sessions (*repeated*)  
6:15 pm Chairman's Reception  
7:00 pm Candlelight Banquet

#### Friday, September 30

- 7:00 am Buffet Breakfast ~ Guest Speaker: Dan England  
    First Vice Chairman, American Trucking Associations  
9:00 am Golf Tournament ~ Payne Stewart Golf Course  
    Lunch at the Golf Course

