



New Members

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Mr. Michael Buffington
(816) 935-2901

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Malden, MO 63863
Ms. Kendra Owens
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Imperial Supplies LLC
789 Armed Forces Drive
Green Bay, WI 54304
Mr. Jordan Bayorgeon
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Pasha Distribution Services LLC
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Lake St. Louis, MO 63367
Mr. Rick Hinkle
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3700 I-70 Drive SE, Suite 106
Columbia, MO 65201
Ms. Jessica Robinett
(573) 256-7637

President's Message

The Buzz around Jefferson City . . .

Upon returning from our latest Board of Directors meeting, where we ironically approved the launch of a Building Maintenance Fund drive, staff was greeted with an unforgettable sight: honey literally "raining" from our building!! As you can imagine, our building has been buzzing with activity, and we have had quite a bit of local notoriety on nearly every channel of the evening news and in the local paper, as well as in the new media of Facebook and Twitter.

While the message is sweet, and even humorous, the need to maintain this asset is more serious. Missouri Trucking Association bought the old Lohman Opera House in 2001, and substantially renovated the downstairs to accommodate office space for MoTA, moving into the building in 2001. In 2006, we renovated the upstairs space and welcomed the G² Gallery as long-term tenants.

During those two renovations, many committed members gave time, resources and money to help MoTA turn the historic building into one of the best looking and well-maintained buildings on High Street!

Now the time has come again for us to ask for your help. The historic building is once again showing its age, and is in need of some TLC. We have reached a point where the repairs and maintenance items are greater than the reserves in our Maintenance Fund. We hope you will answer our call for help and send in your support today!

Thank you in advance for your contributions, of any size. Please make your checks out to MoTA Building Fund, or you may call the office and we can take your contribution by credit card. If you need an invoice to assist with creating a check we will gladly provide one.



Jim Dyke / Jefferson City News Tribune



MissouriMemo
June 2013

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Ad on page 8 . . .



Compliance with HOS Changes Required July 1, 2013

Though the new Hours of Service Rules are being challenged, drivers must comply on schedule, **July 1, 2013**. To help, you can reserve the new Hours of Service training program — and receive an interim solution for your present Hours of Service program.

The solution includes a DVD with new 6-minute bonus video segment to address the changes. 10 driver training supplements will provide your drivers with handy — and up-to-date — Hours of Service guidance.

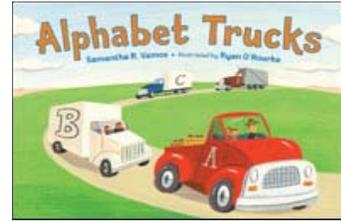
After the challenge has been resolved, the new DVD will go into production and begin shipping.

Stay compliant, order from MoTA today. **\$350.00** each

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An Alphabetical Treat for Truck Lovers

Everyone's heard of a tow truck. And a pickup truck. An ice-cream truck? Of course! But what about a quint truck? A lowboy truck? A knuckle-boom truck? Readers will learn about these kinds of trucks—and many more—while learning the alphabet in *Alphabet Trucks*.

Each letter of the alphabet is accounted for in this introductory concept book for young readers. From the familiar to the unusual, Samantha Vamos writes in snappy verse to present twenty-six different kinds of trucks, explaining where they work and what they do. From a dump truck that unloads a pile of dirt containing the letter "D," to a fuel truck filling up at a tank shaped like the letter "F," Ryan O'Rourke's playful and light-hearted illustrations involve the letters in supporting roles in each scene.

Perfect for the truck lover, *Alphabet Trucks* provides a fun and accessible way for children to learn their ABCs.

Alphabet Trucks publishes on August 1, 2013. It is available now for pre-order via Amazon and Barnes & Noble. \$14.95 / Ages 2 and up.

ATA Wins Supreme Court Case

This morning, ATA prevailed in its Supreme Court challenge to the concession agreements imposed by the Port of Los Angeles on drayage operators serving the Port. A unanimous Supreme Court agreed with ATA that the Port's placard and off-street parking provisions were preempted under federal law prohibiting the enforcement of any state or local "law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier." The Court rejected the Port's argument that its requirements escaped preemption if they were imposed to further commercial interests in port expansion, rather than for regulatory purposes. For a copy of the Supreme Court opinion go to http://www.trucking.org/ATA%20Docs/What%20We%20Do/Law%20and%20Litigation/ATA%20v%20LA%20decision%2011-798_anbf.pdf. ▲

New Research Clarifies Large Truck Safety Trends

On Wednesday, May 29, the American Transportation Research Institute released their Large Truck Safety Trends report on variations in safety trends across different classes of large trucks. Using an ATRI-designed "crash rate index", ATRI isolated specific variables such as vehicle type, crash location, and weather to determine the degree to which certain factors influenced crash trends for medium- and heavy-duty trucks. The analysis revealed noticeable differences in safety trends between different truck sizes, with medium-duty generally performing worse than heavy-duty trucks. In addition, the results indicated disparities between interstate and intrastate motor carriers. This safety data analysis provides important insight for targeting crash mitigation efforts based on different truck size groups, and highlights important opportunities to reduce crashes and improve safety. A copy of this report is available from ATRI at www.atri-online.org. ▲

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FMCSA Publishes Visor Card with Updated HOS Regulations

The Federal Motor Carrier Safety Administration has published a “visor card” outlining the changes to truck driver hours-of-service regulations taking effect July 1.

The card, posted to FMCSA’s website Friday, summarizes each of the provisions of the new rule and compares it to the old rule. It is designed for truck drivers to keep in their vehicles for quick reference.

The rule requires drivers to take a 30-minute break before driving more than eight hours and limits the use of the 34-hour restart to reset a driver’s weekly clock in two ways: The restart can only be used once a week, and it must include two periods from 1 a.m. to 5 a.m.

American Trucking Associations and Public Citizen have sued to stop the rule. The U.S. Court of Appeals for the District of Columbia Circuit has not ruled on the case.

The visor card may be downloaded at <http://www.fmcsa.dot.gov/documents/hos/HOS-Regulations-7-1-2013.pdf>. ▲

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FMCSA Taking Comments in EOBR Survey Regarding Driver Harassment

The Federal Motor Carrier Safety Administration has opened a 30-day public comment period on its plans to survey more than 1,000 drivers and motor carriers for input on ways that drivers can potentially be harassed by the use of electronic logging devices.

The drivers will be surveyed randomly at truck stops to avoid being intimidated by their employers, FMCSA said in a Federal Register notice published Tuesday, even as the agency works toward issuing a final ELD rule.

FMCSA said it plans to randomly survey drivers at truck stops to avoid concerns that drivers will “not feel free to comment without the fear of intimidation by their superiors” when using devices such as electronic onboard recorders, or EOBRs.

The EOBR harassment survey is in direct response to a 2011 federal court ruling rejecting FMCSA’s previous logging device rule that did not go far enough to protect drivers against potential harassment from supervisors using the devices.

American Trucking Associations wrote a letter supporting use of EOBRs and the survey’s goals, in which it stated that “ATA supports laws and regulations mandating the use of [EOBRs] for recording drivers’ compliance with Federal hours-of-service regulations. ATA also supports the FMCSA plan to survey drivers and carriers on how ELDs can be used to monitor productivity and their potential use as a tool to harass drivers.”

FMCSA plans to issue a supplemental proposed rule in November, but is not on track to meet a congressional mandate that the final rule be issued by October 2013. So far, the agency has not said when the final rule will be issued.

A copy of the announcement can be found at <http://www.regulations.gov/#!documentDetail:D=FMCSA-2012-0309-0040>. ▲

FMCSA’s Putting Extra Muscle into Shutting Down Truck Fleets

The Federal Motor Carrier Safety Administration has been on a tear over the last year with the issuance of imminent-hazard out-of-service orders. FMCSA statistics show a nearly fivefold increase – 10 to 48 – in imminent-hazard out-of-service orders issued from fiscal 2011 to fiscal 2012 for bus and truck fleets. While official numbers from FMCSA show fairly level numbers between fiscal 2011 and 2012, one trucking consultant has seen Unfit/Out-of-Service orders spike for carriers found in serious noncompliance after not following through on corrective action plans – a do-or-die fix-it list. ▲

FMCSA Proposes Amending “Gross Combination Weight Rating”

The Federal Motor Carrier Safety Administration (FMCSA) has issued a notice of proposed rulemaking to revise the definition of “gross combination weight rating” (or GCWR) to clarify that a GCWR is the greater of: the GCWR specified by the manufacturer of the power unit, if displayed on the Federal Motor Vehicle Safety Standard (FMVSS) certification label required by the National Highway Traffic Safety Administration (NHTSA), or the sum of the gross vehicle weight ratings (GVWRs) or gross vehicle weights (GVWs) of the power unit and towed unit(s), or any combination thereof, that produces the highest value. The notice appeared in the May 7, 2013 Federal Register and may be accessed on line at <http://www.gpo.gov/fdsys/pkg/FR-2013-05-07/pdf/2013-10735.pdf>. ▲

FMCSA Proposes Eliminating Fleet Financial Reporting Requirement

The Federal Motor Carrier Safety Administration proposed a new rule Friday that would eliminate a quarterly financial data reporting requirement for some interstate motor carriers.

The financial data reporting program was originated in 1938 under the authority of the Interstate Commerce Commission, and with the ICC’s disbandment in 1996, was transferred to the Department of Transportation and later FMCSA.

Information collected does not support any of FMCSA’s regulatory functions, and eliminating the requirement will have no impact on motor carrier safety, FMCSA said in a Federal Register notice Friday.

Once the rule becomes final, it would become the second regulatory relief action taken by FMCSA this year, the DOT agency said.

Go to <http://www.gpo.gov/fdsys/pkg/FR-2013-05-24/html/2013-12339.htm> to view the Federal Register notice or to <http://www.gpo.gov/fdsys/pkg/FR-2013-05-24/pdf/2013-12339.pdf> for a printable version. ▲

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SBA Reports on State Reg Flex Rules

The federal Small Business Administration, the government agency that acts as an advocate for small businesses in this country, has issued a study of regulatory flexibility acts at the state level. The federal Regulatory Flexibility Act, codified at 5 U.S. Code secs. 602, et seq., was passed in 1980, and seeks to lessen the burden of federal regulations on small businesses, on which, the SBA points out, regulatory compliance is apt to fall particularly hard. Federal agencies must at least pay lip service to the RFA, and the Act may on occasion do some real good. The SBA's study finds that while many states have some reg flex effort, much is probably ineffective, through lack of guidance to state regulators and lack of real support from governors' offices. Still, the study provides a lot of detail (it's over 200 pages in length), and recommendations on how states can make their programs more effective. SBA, Research on State Regulatory Flexibility Acts, Wash., DC, May 2013, available at <http://www.sba.gov/advocacy/7540/632371>. ▲

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Another IFTA Ballot Presented

Recently, *State Laws Newsletter* was devoted to this year's crop of proposals to amend the International Fuel Tax Agreement. Now another ballot has been submitted. This one, sponsored by Indiana, is a short-track ballot, meaning that it must receive a majority vote of the member jurisdictions present at IFTA's annual meeting in order to proceed to a vote. The proposal, #06-2013, would allow states and provinces to give their IFTA licensees the option of displaying IFTA credentials electronically. Indiana has submitted a similar proposed amendment to the International Registration Plan. The IFTA proposal could eventually lead to the elimination of the IFTA decals. ▲

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Plan to Quash No-Defect Reports under Review

A proposal that would rescind the requirement that truck drivers file reports on the condition of their equipment at the end of the day, even when they do not find defects, has been sent to the White House for review.

Rescinding the 35-year-old requirement would save the trucking industry \$1.5 billion a year without adversely affecting safety, Polly Trottenberg, the Department of Transportation's undersecretary for policy, told a House panel in May (5-20, p.27).

The White House Office of Management and Budget said it began reviewing the proposed rule June 11. OMB review takes 90 days, but the office can extend that time frame. ▲

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PHMSA Adjusts Annual Hazmat Registration Fee

On April 19, the Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a Final Rule temporarily adjusting the amount of the annual registration fee, to account for an unspent balance in the Hazardous Materials Emergency Preparedness Fund. PHMSA is lowering the fee for the 2013-2014 registration year. According to the notice, the fee for a small business or not-for-profit organization is revised to be \$125 (plus a \$25 processing fee), and for all other businesses the fee is \$1300 (plus a \$25 processing fee). After the 2013-2014 registration year, the registration fees will return to 2012-2013 registration year levels. The Final Rule is effective April 19, 2013. ▲

IRS Grants Extra Time to File for Fuel Tax Credits

By Notice 2013-26, issued last month, the federal Internal Revenue Service has granted extra time for those filing for 2012 fuel tax credits for biodiesel, biodiesel mixtures, alternative fuels (including propane used to power forklifts), and alternative fuel mixtures. These credits were extended by the American Taxpayer Relief Act of 2012 (the Fiscal Cliff legislation) until the end of this calendar year, and retroactively for calendar 2012. Seeing that the new legislation came shortly before, or even after, filing deadlines for 2012 use, IRS has extended those deadlines until July 1, 2013, subject to certain other requirements. See the Notice here: <http://www.irs.gov/pub/irs-drop/n-13-26.pdf>. ▲

FMCSA to Seek CSA Changes to Make Scoring Clearer

The Federal Motor Carrier Safety Administration said it would propose changes to the public face of its Compliance, Safety, Accountability program later this year in an attempt to make clearer that the rankings are not necessarily safety scores.

"We recognize the presentation can be made clearer so visitors can better understand what the scores mean – and what they don't mean," FMCSA spokesman Duane DeBruyne told *Transport Topics*.

The changes will not affect how FMCSA calculates scores or uses CSA to prioritize its enforcement actions, DeBruyne said.

Instead, FMCSA wants to make changes to CSA's Safety Measurement System to show users that percentile scores reflect carriers' compliance with only certain guidelines.

SMS data reflect how a company's violations and audits compare with similar companies, expressed as percentile rankings in categories known as Behavior Analysis and Safety Improvement Categories. They are not official ratings, which can be issued only after FMCSA auditors evaluate a carrier's operations.

The SMS changes will make that distinction clearer, DeBruyne said.

The disclosure left trucking industry representatives disappointed that FMCSA is not taking action on other CSA issues, such as hiding all BASIC rankings from the public unless the scores can be correlated with crash risk.

FMCSA will allow motor carriers to see a preview of the changes sometime this year and will provide time for comment. The preview then will be open to the public before the agency implements the final changes.

FMCSA's latest major changes to CSA were finalized in December, after they were previewed by carriers in August. Those 11 changes centered on realigning the BASICs and increasing oversight of hazardous materials carriers (12-10, p.3). ▲

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PHMSA Pulls Shasta Fire Equipment Cylinders

On June 5, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published an announcement that cylinders requalified for transportation by Shasta Fire Equipment had failed safety inspections and may no longer be used to transport hazardous materials. This disqualification covers any cylinders recertified for transportation by Shasta between March 6 and May 6, 2013. These cylinders are all marked "RIN D183." Carriers should reject any loads with these cylinders and direct shippers to have the cylinder requalified by a certified tester. ▲



Taxes Distinguished from Fees

A recent article from the Tax Foundation provides a detailed account of what distinguishes a tax, legally speaking, from a fee, and compiles some of the state practices related to this issue. The basic difference between the two – which is often somewhat unclear in practice – is that a tax is imposed primarily to support the government, while a fee is imposed to reimburse government costs associated with the provision of a particular service. Among other things, the distinction is important in states where passage of a tax increase demands a legislative supermajority or the approval of the voters. The Tax Foundation says that all states except two – North Carolina and Oregon – have adopted essentially these definitions in their laws. It goes on to say that all states – except Oregon – resolve ambiguity in a tax statute, on this issue and, to some extent, on others, in a taxpayer's favor. Joseph Henchman, "How Is the Money Used? Federal and State Cases Distinguishing Taxes and Fees," Tax Foundation, Wash., DC, released March 27, 2013, and available on-line at <http://taxfoundation.org/article/how-money-used-federal-and-state-cases-distinguishing-taxes-and-fees>. ▲

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PHMSA Emergency Order Recalls Propane Cylinders

On May 24, 2013, PHMSA issued an emergency recall order mandating the recall of all cylinders manufactured by the Lite Cylinder Company and marked as acceptable for use under Special Permit Numbers SP-14562, SP-13957, SP-13105. Lite Cylinder markets 10, 20, 25, and 33 pound propane cylinders, all of which have been recalled for improper testing and frequent flammable propane gas leaks.

The order also recalls all cylinders marked as requalified for use under H706 or manufactured under M5729.

Effective immediately, Lite Cylinder is prohibited from selling these cylinders and all carriers are similarly prohibited from transporting them until purged. Similarly, the special permits and manufacturer's qualification and requalification authorities above have also been cancelled.

Lite Cylinder should contact any carrier with which it has done business and instruct you on how best to stabilize the cylinders. Carriers may also contact Lite Cylinder directly at (866) 412-LITE or (615) 595-7988 for instructions about how to best empty the cylinders and return them to the manufacturer. Once purged, empty cylinders should be returned to 139 SE Parkway Court, Franklin, TN 37064. The emergency recall order can be viewed at http://www.phmsa.dot.gov/staticfiles/PHMSA/DownloadableFiles/Files/Hazmat/Emergency_Recall_Order_The_Lite_Cylinder_Company_Inc.pdf. ▲

Backlog of TWIC Renewals Could Hinder Port Operations

There could be serious trouble ahead at ports, airports and other transportation facilities because tens of thousands of Transportation Worker Identification Credentials (TWICs) issued by the Transportation Security Administration in 2008 and 2009 are nearing their five-year expirations, "creating a surge in renewals and complaints about delays," according to an article on April 25 in the *Journal of Commerce*. Once a TWIC card expires, truck drivers or port workers no longer have unescorted access to secure areas of the facilities.



CARB Launches Trailer-Checking Website

The California Air Resources Board has a new website that will allow shippers and contractor-drivers to check on whether or not a trailer is compliant with the state's air quality regulations. It's searchable by VIN or license number. If the trailer is required to have aerodynamic retrofits, the site directs the user to visually inspect the trailer to ensure compliance before using it. Even if you do not operate in California, the help page for this site is worth reading so you can fully appreciate the complexity of trying to follow the air quality rules. Or you can check out CARB's new storage trailer fact sheet for another example. If you want to use a trailer for storage at a fixed location and it doesn't already comply with the GHG regulations, then you have to register it as a storage trailer and comply with some other requirements in order to move it somewhere else. ▲

engines will need to be retrofitted with diesel particulate filters (DPFs) or replaced by trucks with 2007 or newer engines to legally operate in the state. In addition, fleets with 3 or fewer trucks, including owner-operators, will need to have a DPF or a 2007 or newer engine in at least one of their trucks by this date. Some limited exemptions apply, including a one-time per year per fleet "3-day pass" and a "low-use vehicle exemption" for trucks that travels less than 1,000 miles in California per calendar year. More information about these upcoming requirements, including compliance training opportunities, can be found at the California Air Resources Board TruckStop website - <http://www.arb.ca.gov/msprog/truckstop/truckstop.htm>. ▲

Countdown to More Stringent California Requirements

Fleets that send trucks into California have less than six months to prepare for the next round of more stringent engine emission requirements. By January 1, 2014, trucks with 2005 and 2006

Colorado: Interstate 70 Tunnel

Major rock blasting has begun at the Twain Tunnels project near Idaho Springs, marking the start of long-overdue improvements to the Interstate 70 mountain corridor.

The blasting began May 3 at the eastbound bore of the tunnels, and traffic probably will be moving through the new tunnel by the end of the year.

The \$106 million project includes adding an eastbound lane from the east Idaho Springs interchange to U.S. 6 as well as the



expansion of the eastbound tunnel to include three lanes and shoulders.

Don Hunt, executive director of the Colorado Department of Transportation, said improving the Twin Tunnels is the first of several projects designed to improve safety and mobility along the interstate. ▲

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Illinois House, Senate Agree on 70 MPH Limit

The Illinois House approved a 70 mph speed limit for highways outside of urban areas, despite a potential veto by Gov. Pat Quinn (D), the Chicago Tribune reported.

Supporters said the higher speeds would place Illinois highways in line with neighboring states, while opponents said the increase would lead to more fatalities, especially in crashes between cars and trucks, the Tribune reported May 22.

The Illinois Senate passed the measure in April.

Some metropolitan regions, including Chicago and St. Louis, would be allowed to set lower limits. The state's current speed limit is 65 mph in rural areas and 55 mph in metropolitan areas.

A spokeswoman for Quinn told the Tribune the governor had "some safety concerns" about the measure, which is opposed by the Illinois Department of Transportation, the State Police, the Governors Highway Safety Association and the Insurance Institute for Highway Safety.

AAA Chicago opposes the measure for allowing higher speeds, particularly for big trucks, the Tribune reported. ▲

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MO Clarifies Property Tax

Counties in Missouri levy a local property tax on the rolling stock of motor carriers based within their borders, including rolling stock used in interstate commerce. Pursuant to rulings of the Missouri State Tax Commission, an administrative body, counties have apportioned the tax according to the ratio of miles a carrier's equipment travels in Missouri to the miles it travels everywhere. Until recently, that is, when a single county in the state began to ignore the apportionment rule, and imposed a full tax on trucks and trailers based there. Now, by 2013 legislation, state law requires counties to apportion their tax by mileage. The language was actually passed this session in three bills: S.B. 23, H.B. 184, and H.B. 1035. ▲

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Nevada to Enact Motor Carrier Anti-Indemnification Law in October

Nevada Senate Bill 158, signed into law by Governor Brian Sandoval (R) on May 23, prohibits provisions in motor carrier contracts that require a carrier to indemnify a shipper for losses caused by the shipper's negligence. Nevada's anti-indemnification law is set to become effective on October 1. ▲

New Hampshire Opens Full-Speed Toll Lanes on I-93

New Hampshire officials opened a set of toll gantries in Hooksett last week that allow drivers on Interstate 93 to electronically pay tolls without stopping or slowing down.

The open-road tolling lanes were opened May 22 and are the second installation of the technology, the New Hampshire Department of Transportation said in a statement. The toll plaza now has two full-speed lanes for E-ZPass customers in each direction, in addition to conventional toll lanes.

The open-road tolling will save 270,000 hours in travel time and 465,000 gallons of fuel annually, NHDOT said. New Hampshire also has an open-road toll plaza in Hampton on Interstate 95. ▲

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OR Extends Container Exemption

By legislation (H.B. 2904) effective 91 days following the state legislature's adjournment this year, Oregon has extended from July 1, 2014, to July 1, 2020, the state's existing property tax exemption for cargo containers primarily used for the shipment of cargo in vessels. ▲

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Ban Expanding in North Texas on Trucks in Left Lanes

Trucks are being forced out of the left lane on more North Texas highways. Beginning this summer, the Texas Transportation Department plans to nearly double the number of highway miles in Dallas-Fort Worth where vehicles with three or more axles are banned from the left lane. Trucks are already prohibited in the fast lane of Interstates 20, 30 and 45 in the Metroplex. And over several months, state officials plan to expand the ban to include many other freeways, department spokeswoman Michelle Releford said. ▲

I-5 Skagit River Bridge in Washington Should Reopen Next Week

Crews working for the Washington State Department of Transportation have been making repairs, pouring concrete and finishing construction of the steel framework on the first of two temporary bridge spans designed to bridge the gap in the collapsed Interstate 5 Skagit River Bridge. With the new bridge supports complete, and first span of temporary bridge over the Skagit River, crews gained room to begin work building the second temporary span. Crews expect to work in around-the-clock shifts as much as possible in an effort to finish construction on the temporary span and reopen I-5 to traffic sometime next week. ▲

Required Sick Leave a Hot Issue

The press reports that while cities in several parts of the country have passed ordinances requiring employers to give their employees sick leave, states have passed laws that forbid their local governments from doing this. San Francisco, Seattle, Portland (OR), Washington, and New York City now have such laws, which differ in detail but all of which interfere in the manner in which an employer runs its business. The measures are sold to the public, it is reported, by the argument that they keep employees who are sick, as with the flu, from coming to work and spreading the ailment. A number of states, however, have preempted such attempts by their cities by barring these ordinances; Arizona, Kansas, Louisiana, Mississippi, Tennessee, and Wisconsin now have laws to this effect, and others are pending in Florida and Michigan. ▲

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