



New Members

All-Star Transportation Brokers

1547 Thornton Street
Pacific, MO 63069
Ms. Mary McCoy

Beck Disposal Inc.

2901 Hatherly
St. Louis, MO 63121
Mr. Thomas Beck

CIT Trucks LLC

185 Soccer Park Road
Fenton, MO 63026
Mr. Jim Fields

Connell Insurance, Inc.

1691 South Business 65
Hollister, MO 65672
Mr. Jay Hickman

Grace Hauling

1010 Hoff Road
O Fallon, MO 63366
Mr. Gary Schneider

Henson Trash Service Inc.

Rural Route 4 Box 1018
Piedmont, MO 63957
Mr. Chad Henson

Key Equipment & Supply

13507 Northwest Industrial Drive
Bridgeton, MO 63044
Mr. Steven F. Hyink

Continued on page 2.....

President's Message

Ah, spring is in the air. No, wait, summer has arrived early. No, that's not it. We have a few more weeks of winter. Yeah, that's the ticket. But, wait...

Regardless of the weather or season or whatever combination we have in between, the legislature has reached its spring break for the 2017 legislative session.

Rather than the lengthy listing of legislative bills like we distributed last time, this report is more of a narrative of the hot topics and a status report of the GOP priority bills working their way through the 2017 legislative session. I encourage you to push through the lengthy legislative report if you have any interest at all about the public policy process. The report is a compilation and supplementation by some of the best legislative consultants in Jefferson City, so MoTA members are privileged to gain their insight and strategy as I work with them on several issues of importance to the Missouri Trucking Industry.

Notably absent from the report is any serious discussion of investment in our roads and bridges. For watchers of this type of news, you know that "infrastructure investment" is a topic being discussed nationally and in other states, so what gives in Missouri? Good question!

Recently, we have begun to see more stories picking up on the lack of a transportation component in the 2017 session. We are seeing and hearing that yet another "transportation commission" may be in the works, but most of the discussion has been more focused on getting the economy back on track as the main driver for Missouri's infrastructure investments.

At our November 2016 Board of Directors meeting, MoTA adopted the following policy as it relates to highway funding:

MoTA supports comprehensive transportation funding initiatives to help increase investment in Missouri's critical transportation infrastructure needs. Specifically MoTA supports up to a 15-cent fuel tax increase, with no differential, to be used for roads, bridges and highway funding projects in Missouri.

Stay tuned as this issue develops, as Missouri's need for an increase in our investments for roads and bridges is only going to get more pressing as the number of vehicles on our system continues to increase.

MissouriMemo
March 2017

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For details, see ad on page 6 . . .

New Members

. . . . Continued from first page

Murphy Logistics

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Kansas City, MO 64120
Mr. Jim Ebbinger

Outwest Express LLC

11535 Cedar Oak Drive
El Paso, TX 79936
Mr. Mike Johnson

ProDrivers

11726 St. Charles Rock Road
St. Charles, MO 63044
Ms. Robyn Blake

Rapid Removal Disposal

PO Box 33488
Kansas City, MO 64120
Ms. Sherri Kelly

Riverrun LLC

2121 US Hwy 60
Mountain View, MO 65548
Mr. Scott Tucker

Steco, LLC

8934 State Hwy 14 W
Billings, MO 65610
Mr. David Stein

Steve Crawford Trucking Inc.

11736 Missouri Bottom
Hazelwood, MO 63042
Ms. Beverly Black

Success NationLease

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Mr. John Keating

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Mr. Lance Pshigoda

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FMCSA Releases Updated Guidance of ELDs

On February 15, FMCSA issued additional guidance on the electronic logging device mandate regarding the use of automatic on-board recording devices and non-compliant ELDs. Under the ELD final rule, if a carrier requires a driver to use an AOBDR before December 18, 2019, that device may continue to be used until December 16, 2019. In its new guidance, FMCSA clarified that when carriers using AOBDRs replace vehicles within their fleet, they may install existing AOBDRs into newly purchased commercial motor vehicles. However, carriers may not install any new AOBDRs after December 18, 2017. All AOBDRs however must be replaced by an ELD or upgraded to meet the ELD rule's technical specifications by December 16, 2019.

The new guidance also addresses what carriers and drivers must do when an ELD is determined to be non-compliant. Under the rule, ELD manufacturers are required to self-certify their device is compliant and register the device on FMCSA's compliant ELD registry. According to FMCSA, carriers and drivers have eight days from notification of a device's non-compliant status to replace the device. In the event of a "widespread issue," FMCSA will work with affected carriers to establish a "reasonable timeframe" for replacing non-compliant devices. Additionally, FMCSA has stated ELD manufacturers won't be required to notify carriers if a device is removed from the ELD registry. However, FMCSA will post a list of removed devices on its website and "will make every effort to ensure that industry is aware." Since carriers only have eight days from notification of a device's non-compliant status to replace it, ATA is seeking clarification from FMCSA as to when such notification will have been deemed to have occurred.

ATRI Updates Online Idling Regulations Compendium

The American Transportation Research Institute continues to update and maintain a listing of state and local idling regulations on its website, www.atri-online.org. Two new idling regulations were added to the compendium in this latest update. The listing is provided in two forms, an online compendium which provides detailed information and Internet links to each of the 60 state and local regulations which have been identified; and a cab card which provides a consolidated listing of the state and local limits. The cab card is designed to be downloaded and carried in the glove box of a truck.

ATRI provides the compendium and cab card as a free service to help trucking companies and truck drivers comply with the myriad of state and local idling regulations.



DOT Issues NPRM on Testing for Synthetic Opioids

In late January DOT issued a [Notice of Proposed Rulemaking](#) harmonizing Part 40 with the [revised HHS Mandatory Guidelines](#) for urine testing published the same day. The NPRM proposes expanding the federal drug testing panel to include four Schedule II prescription semi-synthetic opioids: Hydrocodone, hydromorphone, oxycodone, and oxymorphone. The proposal would also remove methylenedioxyethylamphetamine as a confirmatory test analyte and adds Methylenedioxyamphetamine as an initial test analyte. Finally, DOT has proposed additional minor changes including: (1) Updating certain definitions to make them consistent with HHS definitions; (2) Removing the requirement for blind specimen testing; (3) Adding a provision that prohibits DNA testing of urine samples; (4) Clarifying the term "prescription"; (5) Prohibiting program participants from using DOT-branded items on their website, publications, etc.; and (6) Requiring that collectors, alcohol testing technicians, and substance abuse professionals subscribe to DOT's Office of Drug and Alcohol Policy Compliance office list serve. Comments on the [NPRM are due by March 24, 2017](#).

-ATA Dispatch-

Leases Required in Cab

An incident the other day prompts this reminder for motor carriers: the federal regulations on leasing require a motor carrier operating a vehicle owned by another entity to either carry a copy of the lease in the cab of the vehicle or in the alternative carry a statement that contains relevant information concerning the relationship between the two parties. This is the rule even if, as is often the case these days, the lessor and lessee are related entities or subject to common ownership. The relevant section of the federal regulations is 49 CFR sec. 376.11(c), which can be found [here](#).

-ATA Dispatch-

IRS Issues Notice Affecting Glider Kits

A couple of years ago, the federal Internal Revenue Service issued guidance to its auditors concerning glider kits. Motor carriers had been using gliders to refurbish used trucks and tractors, and using a provision of the Internal Revenue Code (section 4052(f)(1)) to accomplish the changes without the imposition of the 12 percent federal excise tax on the resulting vehicles. The IRS guidance determined that several fact patterns constituted the "remanufacture" of a vehicle, rather than its "repair or modification," meaning that IRS auditors would no longer qualify circumstances of that type as eligible for FET exemption. It's our understanding that far fewer glider kits have been sold tax-exempt since that time. IRS has now issued definitions of vehicle "body" and "chassis" for purposes of the FET exemption. The law had up until now provided no such definitions. In substance, the new definition of a "chassis" is "a vehicle's frame and supporting structure," including such elements as the engine, axles, transmission, drive train, suspension, and cab. A vehicle "body" is the "cargo or load carrying structure," such as a flatbed, tanker, or box body. IRS concludes the notice with the statement: "IRS will use the definitions ... to determine the threshold issue of whether a [vehicle] has been repaired or modified. In other words, the [exemption from FET] may be applied ... only if the chassis or body being repaired or modified is identifiable as such within the meaning of the [definitions]." It is not clear to us just what this may mean in practice, but we doubt that it's good news for motor carriers. IRS Notice 2017-5, issued February 6, 2017, and on-line [here](#).

-ATA Dispatch-



U.S. Motorists Set New Driving Record

[New estimates from the Federal Highway Administration](#) found that American drivers traveled more miles in 2016 than at any time in the nation's history. Motorists traveled more than 3.2 trillion miles last year, nearly 88 billion miles more than in 2015. This marked the fifth straight year that mileage increased and, according to FHWA, "underscores the demands facing America's roads and bridges, and reaffirms calls for greater investment in surface transportation infrastructure."

-ATA Dispatch-

ATRI Releases Annual List Of Top 100 Truck Bottlenecks

On January 25, the American Transportation Research Institute released its annual list highlighting the most congested bottlenecks for trucks in America.

The 2017 Top Truck Bottleneck List assesses the level of truck-oriented congestion at 250 locations on the national highway system. The analysis, based on truck GPS data from 600,000+ heavy duty trucks uses several customized software applications and analysis methods, along with terabytes of data from trucking operations to produce a congestion impact ranking for each location

"With President Trump expected to press for significant long-term infrastructure spending, this ATRI analysis should be a key guide for deciding what projects are worthy of funding," said American Trucking Associations President Chris Spear. "Ensuring the safe and efficient movement of goods should be a national priority and this report draws attention to the places where our highway network needs improvement in order to meet that goal."

For access to the full report, including detailed information on each of the 100 top congested locations, [click here](#).

-ATA Dispatch

District Urged To Re-Evaluate Air Quality Modeling

ATA, along with a number of business and transportation organizations, have asked the South Coast Air Quality Management District to reevaluate the accuracy of its air quality modeling. In a [letter](#) submitted earlier this week, the groups point out how the "District's air quality modeling still consistently under-predicts the rate of ozone reduction in the (basin), and so still over-estimates the amount of future additional (nitrogen oxide) NOx reductions needed for attainment." The District will consider adoption of a [plan](#) to meet federal air quality standards next week. The plan seeks to reduce NOx emissions by an additional 45 percent and 55 percent by 2023 and 2031, respectively. The District petitioned EPA to undertake a rulemaking to further reduce NOx emissions from new heavy-duty diesel trucks by 90 percent by 2024. The plan also calls for approximately \$11 - \$14 billion in incentive funding through 2031 to accelerate turnover to lower emitting on- and off-road vehicles.

-ATA Dispatch-

ATA Regulatory Staff Assessing Impact of White House Executive Actions

As the Trump Administration begins, ATA regulatory and advocacy staff has been working to process the executive actions coming from the White House. Following the examples of prior Administrations, President Trump's Chief of Staff Reince Priebus signed and [published a memorandum](#) freezing new regulatory activity and setting the guidelines to proceed.

Congressional leaders and President Trump have discussed freezing and rolling back regulatory actions, but the memo from Priebus is the first real action to direct government activities. Discussion of using the Congressional Review Act of 1996 to undo agency rulemakings that became final within the eligible statutory deadline – roughly June 2016 – has mixed with a more broad discussion about enacting new laws to reform the system for making regulations. Of the CRA-eligible rules, the Phase 2 Greenhouse Gas and Fuel Efficiency Rule, which was finalized in October, is the regulation about which ATA has received the most feedback.

The Jan. 20 memorandum freezing regulatory activity is clear that rules that have not yet been published in the Federal Register are frozen until a review is completed by the new Administration. For rules already published but with an effective date after Jan. 20, the memo directs agencies to delay the effective date by 60 days. One important trucking rule that falls into this category is the Entry Level Driver Training rule, which had an effective date of Feb. 6. The ATA and our members support the ELDT rule, and conversations are beginning to minimize the delay.

The memorandum also contains a provision excluding from review regulations that "affect critical health, safety, financial or national security matters, or for some other reason." While ATA does not believe that any prominent trucking-related regulations will be impacted by this provision, it will continue to monitor agency action and will report any changes.

Incoming Secretary Elaine Chao, who was reported out to the full Senate by the Senate Commerce, Science and Transportation Committee today, and the new leadership at the Department of Transportation will be tasked with this review, working with the White House. ATA has begun conversations with Secretary Chao's team to identify rules and policies to continue moving forward, like the ELDT rule, and which rules may warrant a more in-depth review.

Additionally, rules and programs that are not eligible for delay by either the White House memo or Congressional CRA action are not yet slated for change. The Electronic Logging Device rule, which begins implementation this December, and the rules associated with the Compliance, Safety and Accountability program at FMCSA will not see changes in status without future legislation or litigation.

-ATA Dispatch-



OH Court Rules on Pass-Through Income

The Ohio Supreme Court has held that income received by the nonresident owners of a Subchapter S (closely held) corporation constituted nonbusiness income that was not apportionable to Ohio. The business here was a supplier of specialized automotive equipment, did business in Ohio and other states, and was wholly owned by a married couple resident in Missouri. Originally a Subchapter C (traditional) company, the business had been converted by the owners into a subS corporation, that is, a pass-through for income tax purposes, in 2004. In 2008, the owners received a dividend from the pass-through of some \$75 million, representing earnings of the business while it was still a subC company. Ohio sought to treat this payment as business income, apportionable to Ohio, rather than, as the taxpayers argued it was, nonbusiness income allocable entirely to Missouri. The court first distinguished the characterization of taxable income for the owners of a subS corporation – that is, their distributive share of earnings, whether actually distributed or not – from the event that yields taxable income for the owners of shares in a subC company – that is, the declaration of a dividend from accumulated profits and earnings. Here, the court held, the transaction was of the second type, and was not at all related to the owners' distributive share from 2008 operations of the now-converted subS. Tax was triggered solely by the declaration of the dividend from earlier corporate earnings. *Giddens v. Testa*, docket no. 2014-2012, decided December 28, 2016

-ATA Dispatch-

FL Issues Useful Guidance

The Florida Department of Revenue has issued a couple of notices that may be of interest to motor carriers operating in the state. The first, Technical Assistance Advisement No. 16A-018, released January 26, 2017, deals with transfers of motor vehicle titles when a business changes its name from "Inc." to "LLC." Says the department, provided the transfer is a part of a reorganization qualified under section 368(a)(1)(f) of the federal Internal Revenue Code, and the business has filed with the department a specially worded sales tax exemption form, the transfer of titles will not be subject to state sales tax. This notice may be found on-line [here](#).

The second notice out of Florida concerns corporate income tax apportionment. Here, evidently in answer to an inquiry from a taxpayer, the department concluded that the business in question was a "transportation company" under state law, and so entitled to use the single factor of revenue miles to apportion its income to Florida. The business was engaged in several activities, including design and manufacture, but the notice finds that the majority of its revenue was derived from delivery services for hire. Technical Assistance Advisement No. 16C1-002, released January 26, 2017, and on-line [here](#).

-ATA Dispatch-

MARK YOUR CALENDARS FOR THE UPCOMING EVENTS!!

SuperTech Competition

April 12, 2017
Ozark Empire Fairgrounds
& Event Center
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Night at the Ballpark

May 17, 2017
Ballpark Village
St. Louis, MO

Annual Convention

September 27-29, 2017
Chase Park Plaza
St. Louis, MO

MoTruck PAC Golf Tournament

June 27, 2017
Old Kinderhook Golf Club
Camdenton, MO



Truck Driving Championships

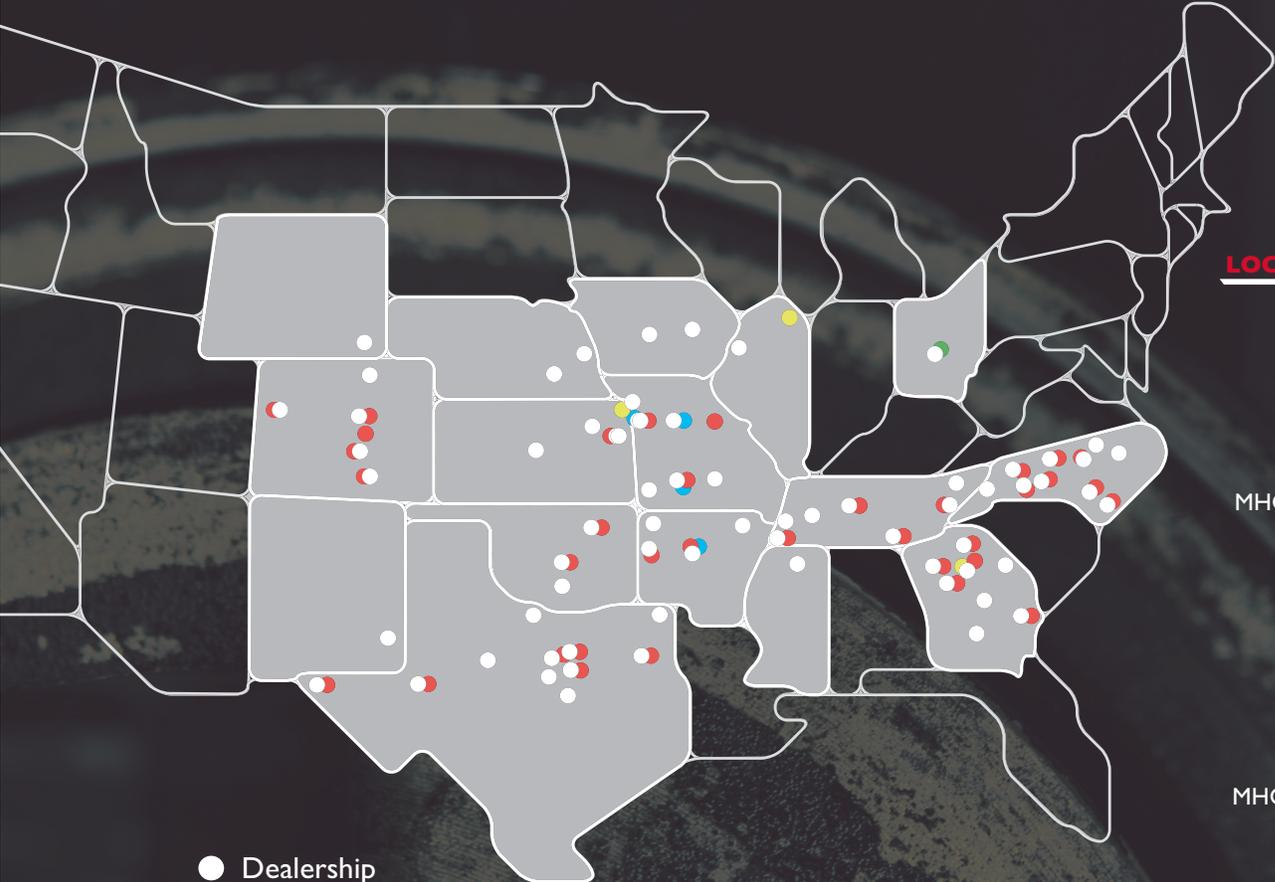
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