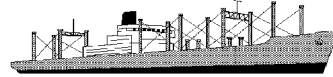




Rollin' On [®]



An Electronic and Facsimile Newsletter for the Transportation Industry

Volume XVI, Issue 3

Copyright © 2011

March 2011

CSA: COMPLIANCE, SAFETY, ACCOUNTABILITY'S IMPACT ON CARRIERS, DRIVERS, SHIPPERS

I am from the government and am here to help you." With that introduction, the common reaction of the listener is to run for the hills. That won't work for the new federal transportation world in which we now live, namely with the implementation of the now common acronym CSA, as in Compliance, Safety, Accountability, administered by FMCSA.

Although it may sound like a defunct airline, it is instead quite alive, courtesy of public funding thank you very much. While state and local governments are laying off people by the truckload, FMCSA (csa seems to be everywhere, like the government but that's the point), by all indications, has no such limitations, which means truckers will have more inspections.

This is a sea change, not the Steve Martin world, where he takes people on a safari and proudly boasts that they are about to leave their old boring world of 9 to 5 and enter the brand new exciting world of 8:30 to 4:15.

Out with the old SafeStat System, just when everyone was getting used to:

- Quickly outdated safety ratings (or so the mantra went).
- Flagged carriers due to litany of violations.
- Drivers eluding detection.
- Compliance review begets safety rating update.
- Tiny % of carriers reviewed on an annual basis.
- Emphasis on out-of-service violations.
- Bean counting audit during compliance review.

These are some examples, by no means conclusive, of the newly departed old regime to which we

LARRY R. DAVIDSON
Attorney at Law
 1850 Benj. Franklin Plaza
 One SW Columbia St.
 Portland, Oregon 97258
 (503) 229-0199
 Fax (503) 229-1856
 E-Mail: larry@rollin-on.com
www.rollin-on.com

previously became accustomed.

Enter the new world of:

- All crashes and inspections remain a part of the carrier data for two years unless overturned through review.
- Where focus goes beyond out-of-service violations and accidents to citations, safety-related violations and warnings.
- Intervention is focused on identified problems.
- Carrier scores are updated frequently.
- Focus on behind the wheel performance.
- Efforts to ascertain causes of risky behavior, with measures to modify that behavior (carrot or stick?).
- Violations are rated based upon severity and age.

Again, these are just some examples of our brave new world.

How it works. First there is intervention. FMCSA contacts the carrier and informs the carrier that the carrier has some sort of problem.

Next comes investigation. FMCSA follows up to see what the carrier will do to correct the problem. It is comforting having someone watch over you, isn't it.

The next and final step is the follow through, to make sure the carrier has taken the necessary measures. If yes, good. If not, sanctions will be forthcoming. Civil and even criminal penalties can be assessed.

Drivers. Meanwhile, carriers will receive the safety ratings. Drivers, who will in large almost literally drive the safety ratings, will not receive safety ratings. To top it off, tickets or

warnings that drivers receive while driving their personal vehicles do not count in the safety management system (SMS). So drivers who want to keep their jobs with a zero or near zero tolerance carrier will be well advised to do their mischief while in their personal vehicles and save their best behavior for the job.

Also, although a driver's body mass index may contribute to sleep apnea, drivers are not evaluated based upon their bmi.

However, while drivers are spared certain measures as discussed above, drivers with problems are subject to action. Lapses in judgment in this regard include driving while disqualified or with no CDL at all, excessive number of hours of service violations, driving under the influence of a controlled substance, among others.

Carriers. For their part, carriers can help themselves by being proactive. For example, make sure your MCS-150 is correct. They can of course assure that their equipment is in good condition and paperwork is in good order.

Industry changes. Meanwhile, due to the economic downturn over the past few years, there are fewer carriers and the capacity has shrunk. Shippers have fewer choices, and carriers will be less tolerant of shipper directives, the ones which could result in citations, since the carriers' scores can be negatively impacted by those citations.

Conclusion. Carriers, drivers and shippers will all be impacted by CSA. It's not a matter of if, but when. All parties will need to adjust. Sometimes the fallout from changes is unpredictable.

That's it for now. Until next time, keep the cargo *rollin'!*

The Obligatory Disclaimer

This newsletter is for informational purposes, does not provide legal advice and does not create an attorney-client relationship

Short Bio

Admitted to the state bars of Oregon, Alaska, Florida and Massachusetts. Practicing law for over 30 years and emphasizing transportation law, business law and related litigation