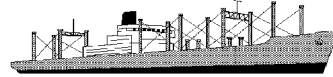
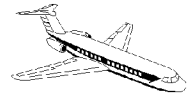




Rollin' On [®]



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HOURS OF SERVICE: And some trivia.

Many of you know that there is an ongoing saga with the hours of service regulations promulgated by the FMCSA. It started in 2003, when after 60 years, FMCSA decided that it wanted to change the rules. Think of the vehicles and the highways of 60 plus years ago, and compare them to today's vehicles and highways. But how do you compare people?

The main changes were to extend the 10 hour driving time to 11 hours within a 14 hour workday, and to impose a 34 hour break before resetting the weekly limit. As a partial tradeoff, FMCSA also extended the off duty time from eight hours to 10 hours. The sleeper berth regulation was also changed to allow split rest periods, with a two hour minimum for one.

The new rules were struck down by the federal court in 2004. FMCSA reissued the rules, changing the sleeper berth rule to require at least one break be eight hours. In July the Court of Appeals again struck down the rules, stating that, procedurally, the FMCSA had not acted properly. In late September, the court issued a 90 day stay of its order, until December 27.

Last week the FMCSA issued an Interim Final Rule in which it reinstated the rules that, in large part, have been struck down twice so far. The FMCSA claims that the amended rules have resulted in safer operations.

Of course, the opponents, which includes the Teamsters and Public Citizen, are objecting to the deregulated rules. We can reasonably expect the opponents to continue their opposition and to file new litigation to undo this third re-writing of the rules. Maybe in another 60 years the industry

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will finally have new rules to live by. In the meantime, the carriers need to comply with the rules as written.



**BEST WISHES FOR THE
HOLIDAYS AND FOR A
HAPPY AND ENJOYABLE
NEW YEAR.
AND MAY YOUR
TRANSPORTATION
TRAUMAS BE TRIVIAL.**

ODOT Inspections: Piling on

Meanwhile, ODOT is cracking down on hours of service and logbook inspections in order to decrease the number of truck-at-fault accidents, since there has been a steady increase in those accidents. ODOT claims the majority of the accidents are due to truck driver actions, as opposed to mechanical problems.

Water pumpkins: Better be lucky than good.

A few years ago, I load up the wife and kid and off we go to find a Christmas tree. For this purpose, only one vehicle will do, and that is my 1954 International pickup (photo posted on my website). I've had this pickup forever and it is very trusty. Well, usually trusty. There was this iddy bitty leak in the radiator, but as long as Dad kept water in the radiator, life was good, no worries.

So there we are, out in the country and around nature and all of that good stuff, when, *voila*, the pickup overheats. Dad is not very popular at this particular moment. So, lacking enthusiasm, the family embarks on a walk. We don't go 100 yards when we come upon a large plastic pumpkin in the ditch which, remarkably, was sitting with the open end up, full of water, enough to get us to a gas station. My paternal grandmother was 100 % Irish.

Virus: Gotta be.

I'm fighting a pretty good cold right now. So are many of you I'm sure. One of my father's adages was that when doctors said so-and-so had a virus, that meant the doctor had no clue what the malady was. But they have to say something, so OK, you've got a virus. Makes you feel better already, knowing that since the doctor said it, it must be true.

Of course there is no treatment. That's the other nice part. They can tell you what you've got, a virus, and then tell you that there is no treatment for it. And don't forget, pay your bill on your way out the door please.

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

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.