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Transcending Technology in Transportation Safety

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Safety and Loss Control May Make the Difference in Your Company Being Able to Survive

February 14, 2020

Rising Insurance Costs Threaten Motor Carriers

Due to increased jury awards in crash litigation, the rising cost of liability insurance premiums has created an existential threat to some motor carrier operations. A recent Wall Street Journal article, "*Surging Truck Insurance Rates Hit Freight Operators*," January 13, 2020, quotes one truck insurance broker that median truck crash litigation verdicts "have gone from $23 million to $44 million over the past 18 months."

In addition, the article cites data from the American Transportation Research Institute (ATRI) that the cost of truck insurance premiums rose 12% in 2018 from the previous year, to 8.4 cents per mile of operation. Many carriers have faced increases in the 20 to 30% range, depending on their loss experience and other safety factors. Some for-hire carriers have gone out of business in recent months, citing insurance costs as a primary factor in their decision to cease operations.

The theme for this year's seminar is "Transcending Technology in Transportation Safety".

Idealease and the National Private Truck Council NPTC will again be hosting safety seminars in 2020. The one-day seminar this year will focus on new safety technologies available on trucks today, basic safety and compliance, regulation changes, load securement and CSA. The seminars and will be provided to all Idealease customers, potential customers and NPTC members at no charge. The

The Federal Motor Carrier Safety Regulations require for-hire motor carriers to maintain $750,000 in liability coverage. Carriers transporting hazardous materials must have at least $1 million or $5 million in coverage, depending on the commodities hauled. There are no federal minimum coverage requirements for non-hazmat private motor carriers, however. These minimum requirements have been in place without revision since 1985.

In April 2014, the Federal Motor Carrier Safety Administration submitted a *report* to Congress on the appropriateness of the current minimum financial responsibility requirements for the transportation of passengers and property. The report noted that had the minimum coverage levels adopted in 1985 kept pace with inflation based on a medical consumer price index, by 2013 general freight transporters would have required almost $3.2 million in coverage. Likewise, the $1 and $5 million coverage for hazmat carriers would have increased to $4.2 million and $21.2 million, respectively, by 2013.

This report led the FMCSA to issue and advance notice of proposed rulemaking to consider increasing the minimum levels of financial responsibility for motor carriers, freight forwarders, and brokers. *79 Fed. Reg. 70839* (November 28, 2014). The ANPRM did not include a specific proposal for minimum coverage, but sought comments on industry loss data and related information in order to develop a proposed rule.

On June 5, 2017, however, the FMCSA withdrew its November 28, 2014 advance notice of proposed rulemaking concerning minimum levels of financial responsibility for motor carriers, freight forwarders, and brokers.

The FMCSA decided to withdraw the ANPRM because the agency said it did not have sufficient data or information to allow it to proceed to a proposed rule. In particular, the FMCSA stated commenters did not provide sufficient cost or benefit data and the agency was unable to otherwise obtain sufficient data on industry practice with respect to the level of liability limits in excess of the agency's minimum financial responsibility requirements, the cost of such premiums and the frequency of, and the amount by which bodily injury and property damage claims exceed policy liability limits.

The agency categorized the comments submitted as containing "anecdotal and hypothetical data," and said the comments are not sufficient to perform a systematic cost-benefit analysis that would be required to raise motor carrier minimum financial responsibility through a rulemaking.

More recently, litigation awards and insurance markets have forced for-hire and private motor carriers to reconsider their levels of insurance

seminar provides important information applicable for both the novice and experienced transportation professionals.

Spring Dates

3/11/2020	San Leandro, CA
4/6/2020	Columbia, SC
4/7/2020	Atlanta, GA
4/14/2020	Cleveland, OH
4/15/2020	Youngstown, OH
4/16/2020	Tampa, FL
4/21/20	Kansas City, MO
4/22/2020	Dallas, TX
4/23/20	Memphis, TN
4/30/2020	Chattanooga, TN
5/5/2020	Wausau, WI
5/6/2020	Madison, WI
5/7/2020	Aurora, CO
5/13/2020	Portland, OR
5/14/2020	Santa Fe Springs, CA
5/20/2020	Altoona, IA
5/20/2020	Baltimore, MD
5/21/2020	Mannheim, PA
7/22/2020	Santa Rosa, CA

Fall Dates

9/23/2020	Brantford, ON
9/23/2020	Indianapolis, IN
9/29/2020	Fort Wayne, IN
10/7/2020	Eugene, OR
10/13/20	Charlottesville, VA
10/22/20	Birmingham, AL
10/29/20	Phoenix, AZ

Please ***Click Here*** to view a schedule of all Safety Seminars offered.

coverage. The inability of smaller for-hire carriers to secure an adequate level of liability coverage might encourage shippers to use their own private fleets for more shipments rather than risk liability exposure from an underinsured for-hire fleet.

Both private and for-hire fleets are viewing voluntary adoption of safety technology as a cost-effective measure to address litigation risk exposure. Cameras (both inward and outward facing), collision avoidance systems, lane departure warning devices, speed monitors, and similar technology are increasingly showing up on new commercial vehicles. Congress has considered tax incentives for purchases of truck safety technology in recent years, but these proposals were not enacted into law.

In an October 2019 *report*, ATRI identified rising insurance costs as an emerging issue of concern for the trucking industry. The report noted, "[s]ince 2013, fleets participating in ATRI's Operational Costs of Trucking data collection have seen insurance premium costs per mile increase over 17 percent, driven by a number of factors including increasing costs associated with: equipment repair, rising medical costs, higher jury awards and settlement costs and greater safety and legal exposure."

In addition, in October 2018 ATRI gave a *presentation* to the Insurance Service Office's Engineering and Safety Service Loss Control Executive Forum on the potential risks and exposures that impact commercial auto insurers. The report identified the top ten challenges in commercial trucking, including the driver shortage, hours of service, lack of adequate parking, driver distraction, and highway congestion.

Moreover, ATRI identified driving behaviors that can help predict future crash risk for a commercial motor vehicle driver. For example, a reckless driving violation increases a driver's risk of a future crash by 114%; a violation for failure to yield right of way increases future crash risk by 101%. Being in a crash, whether or not the driver's fault, increases the risk of another crash by 74%. This data emphasizes the need to retrain drivers exhibiting this risky behavior as soon as possible, before a collision occurs.

Absent passage of some overriding tort reform legislation, which is not currently likely, there is nothing on the horizon that will stem the increase in litigation awards for truck crashes. Company managers need to use all the available resources to understand and mitigate their risks.

January 11, 2020

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Did You Register Your Company for the New Drug & Alcohol Clearinghouse for CDL Drivers?
Drug and Alcohol Clearinghouse Registration Portal is Clogged at Deadline
FMCSA Increases Random Drug Testing Rate to 50%

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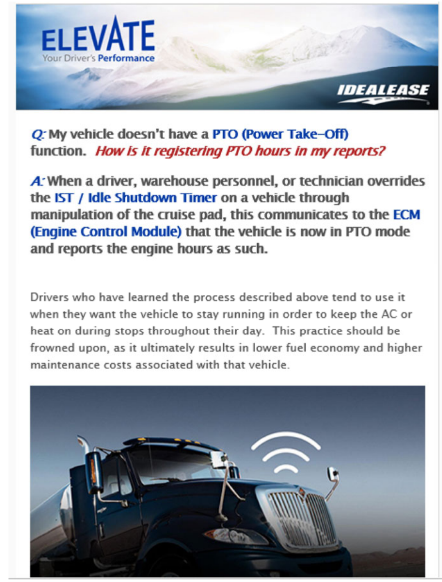
Time to Finalize Your Accident Documentation for 2019

All motor carriers operating CMV's over 10,000 lbs. MGVWR, transporting HM in placardable quantities or transporting passengers are required to record accidents on a register by calendar year as defined in 49 CFR 390.51. Even if no accidents were incurred by the motor carrier, an accident register is required.

Article provided by the National Private Truck Council



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