



TRANSTRENDS

THE TRANSLAW GROUP, INC.

EDITOR: JAMES M. BURNS

EVERETT ASSOCIATES, INC.

48 ROBBINS ROAD
SPRINGFIELD, MA 01104
TOLL FREE 800 637 0754
TEL 413 732 8588
FAX 413 732 8553

EMAIL: information@everett-associates.com

IN THIS ISSUE

- 1 UCRS REPLACES SSRS
- 2 CANADIAN TERRORISTS ARRESTED
- 3 TRUCKER KIDNAPPED
- 4 NEW WAYS TO CALCULATE INSURANCE
- 6 MAINE LAW MAY HELP FUTURE CASES
- 6 MORE BIG DIG PROBLEMS
- 7 NEW WAYS AROUND DIESEL PRICES

IF YOU WISH TO END YOUR SUBSCRIPTION TO TRANSTRENDS, SIMPLY SEND AN EMAIL REQUESTING A CANCELLATION TO JBURNS@TRANSREGS.COM

UCRC REPLACES SSRS

The Single State Registration System (SSRS) is being replaced by the Unified Carrier Registration Plan (UCRP) effective January 1, 2007. The SSRS also known to the older generation as the "Bingo Stamp" program has been replaced with the UCRC which has been mandated by law. The UCRC will be administered by a 15-member board appointed by the Federal Motor Carrier Safety Administration.

There will be no more filings made with the various states that participated in the SSRS program, rather, a filing will be made with the Feds and the UCRC board of directors is currently formulating procedures, rules and regulations that must be followed in order to comply with the new system.

The new rules are not known at this time, however, it is known that not only will for-hire carriers be required to register annually, freight forwarders, brokers, leasing companies, private carriers and exempt for-hire carriers will have to make a filing under the soon to be released procedures, rules and regulations. It is expected that the gross fees paid by for-hire carriers will be less under the new system since so many new entities have been brought under the filing requirements. The total fees collected under the SSRS must remain at the same level under the UCRP. Certainly, a daunting project for the newly appointed board of directors made up from the industry and government sectors.

Further alerts will be issued as the procedure, rules and regulations become known.

FEDEX DRIVERS AWARDED \$61 MILLION

A San Francisco jury has awarded \$61 million to two FedEx Ground drivers who claimed a manager used racial slurs against them for two years.

The drivers – who are of Lebanese decent – claimed that, among other things, the manager called them “terrorists.” The two men were contract drivers who worked out of the Oakland, CA, FedEx ground facility. A FedEx spokesman says the jury award was “excessive” and that the company will appeal.

UPS CONSIDERING \$6 MILLION FLORIDA APPEAL

A Broward County Circuit Court jury in Florida awarded a former driver and 20 year employee \$6 million on May 12 after deciding UPS, Inc. wrongfully terminated him from his Deerfield Beach facility in November of 2001. UPS, Inc. said it is considering an appeal of this decision by a Florida jury.

The jury awarded John Thigpen \$669,661 in economic damages and \$5.3 million in non-economic damages for mental anguish after saying the carrier “retaliated against Mr. Thigpen for pursuing worker’s compensation benefits.” However, a UPS spokesman stated that John Thigpen “was properly terminated for repeated instances of dishonesty on the job for falsification of delivery records.”

The spokesman also stated that Mr. Thigpen lost to a grievance panel of Teamsters and multiple UPS representatives after he appealed his termination. Mr. Thigpen’s personal-injury attorney said that Mr. Thigpen was fired after a UPS representative sent a 2001 e-mail to supervisors to target injury repeaters.

CANADIAN TERRORISTS PLANNED TRUCK BOMBS

The suspected terrorist plotters arrested recently in Canada had planned to use truck bombs to carry out their evil deeds, according to the Canadian Broadcasting Corporation.

The 17 people charged so far in the alleged plot to blow up prominent buildings in Toronto, including the Toronto Stock Exchange, had attempted to obtain three times the amount of ammonium nitrate fertilizer than was used in the Oklahoma City bombings in 1995. CBC News reported that unreleased court documents the news agency obtained showed that truck bombs were going to be part of the plan.

Canadian authorities say a 20-year old man, Zakaria Amara, was the mastermind behind the recent Canadian plot. Fifteen of the 17 suspects faced their first court appearance this week. Five of the suspects are juveniles and their names are being protected under Canadian law.

Law enforcement agents foiled the attack as the suspects attempted to buy the fertilizer. Undercover authorities intervened and delivered a safe substance to the suspects instead of the fertilizer shipment.

NEW YORK STATE THRUWAY PROPOSAL COULD SIGNIFICANTLY LOWER TOLLS

The astronomically high truck tolls on the New York State Thruway could become less astronomical, if new legislation proposed by Gov. George Pataki becomes law.

Pataki unveiled the proposal, known as the Canal Revitalization Bill, May 22. The legislation would eliminate the jurisdiction of the New York State Thruway Authority over the state's Canal Corporation, which has been responsible for the canal system since 1992. It would also eliminate funding of the 524-mile canal system receives from tolls on the Thruway.

According to a press release from the governor's office, Pataki's plan would save the Thruway Authority \$305 million, which would be used to eliminate Thruway debt associated with the canal system, enhance the state's capital improvement plan, and – most importantly to truckers – provide toll discounts around \$110 million.

The proposed decrease will follow the same pattern as a toll increase that went into effect in May 2005. Passenger vehicle tolls rose by 25 percent, while commercial vehicles rose by a minimum of 35 percent. Now, with the proposed decreases, passenger vehicles will see a bigger decrease than truckers will.

Although Pataki's plan has received an endorsement from the Thruway Authority and the Canal Corporation, critics worry that the canals won't be able to receive the necessary taxpayer funding without help from Thruway Tolls.

Translaw wants to know who uses the canals!

ALABAMA TRUCKER KIDNAPPED

Police in Opelika, AL, are still looking for two men who they say hijacked an owner-operator's tractor on the morning of June 5 – while holding the trucker hostage for five hours. Police say 59-year-old Charles Kidd, of Opelika was getting ready to hook up his tractor to a dry van when he was approached by two men.

Capt. Allan Elkins with the Opelika Police Department said, at first, the two suspects made small talk about trucking, but that changed quickly. "At one point in the conversation, suspect one pulls a pistol and holds him at gunpoint, while the second suspect duct tapes him," Elkins said. "With his arms behind his back, they force him into his truck and place him in the sleeper cab ... they back up to a flatbed trailer ... where they steal it."

Elkins said the tractor – now pulling a flatbed with \$9,000 worth of lumber – was driven to a location in or near Newnan, GA – about 75 miles from Opelika. The lumber was off-loaded while Kidd remained bound and blindfolded in the sleeper berth. The suspects drove to another, remote location and left – telling Kidd not to move for 20 minutes. Elkins said Kidd eventually freed himself and contacted police.

Kidd was unharmed – but told a local TV reporter he spent a lot of time praying during the ordeal.

EMPLOYEE RECOVERS WORKER'S COMP OVER COFFEE BREAK

A highway maintainer for the Illinois Department of Transportation was entitled to Worker's Compensation after suffering a laceration on his right thumb during a coffee break on April 7, 2004.

The Illinois Worker's Compensation Commission affirmed an arbitrator's decision finding that the employee suffered this laceration from the lid of the can while making coffee during a paid break. The cut required surgery.

The claimant was entitled to two 15 minute paid breaks where he was required to remain in the building but not clock out. The claimant was also making coffee for the benefit of his supervisors and co-workers. The arbitrator said "the injuries arose out of his employment because he was performing an act of personal comfort, for himself and his co-workers."

Making coffee was an activity in which many or all of the employer's employees including supervisors indulged for their mutual benefits. Based on this, the commission stated that "the coffee making activity was incidental to the claimant's employment."

UNDERWRITERS FIND NEW WAYS TO CALCULATE INSURANCE

Insurance underwriters that traditionally have relied on claims data to assess risk are now also looking at financial strength, driver training procedures, motor vehicle records and the company's "safety culture" to determine the amount of premium to be paid. And some trucking executives, for their part, are beginning to more closely monitor driver performance and identify risky behavior that is likely to lead to crashes and higher insurance costs.

"The first thing we look at is financial condition," said Peter Van Dyne, technical director for transportation at Liberty Mutual Corp. Poor finances, he said, can lead to higher turnover and reduced equipment maintenance, both of which have a high correlation to an increase in accidents. "The next thing we do is a profile of driving records. We look at the percentage of drivers with clean motor vehicle records. This gives us a better feel for the quality than just having in place hiring standards," Van Dyne said.

Van Dyne sees "a strong relationship between companies using technology to monitor (driver) performance and safety." Eagle Transport Corp., a tank truck carrier in Rocky Mount, N.C., assigns drivers a safety score based on a formula that processes the number and severity of crashes, a driver's personal and commercial motor vehicle driving record, results of roadside inspections, complaints from the public, and alcohol and drug testing results.

Since the program was put in place five years ago, Heinisch said that Eagle Transport has seen a 30% reduction in accidents, a decline in injuries and across-the-board improvement in safety scores. "We're still targeting at-risk drivers and our risks continue to diminish," Heinisch said.

Another system used by many carriers assigns points to drivers for each motor vehicle violation or other "event," such as speeding or panic stops, that occur while driving and are recorded by the vehicle's engine electronic control module or other onboard computer systems. The system was developed by Cottingham & Butler, an insurance broker based in Dubuque, Iowa, to help carriers improve their safety performance.

“If you can hold the line and maintain the quality of drivers, you will have a safer company,” said Christopher Patrick, senior vice president of Cottingham & Butler Truck Insurance Group.

One area that is getting more attention from both insurers and carriers is SafeStat (www.safersys.org), a safety status measurement system that is used by the Federal Motor Carrier safety Administration to help target potentially unsafe fleet operators. SafeStat combines data on crashes, roadside inspections, on-site compliance reviews and enforcement activity to develop an overall safety score for motor carriers.

Although FMCSA removed the safety score from the SafeStat web site because of problems with quality of accident data, insurance officials say data on vehicle and driver out-of-service violations is nonetheless helpful in alerting them to possible safety problems at fleets.

SafeStat scores, although no longer published, are still used by FMCSA to target fleets for inspections and that information can be helpful in assessing a fleet’s safety risk, Crippen said. For example, a carrier with a SafeStat score of 75 or higher triggers an alert that requires all of the company’s vehicles to be stopped for inspection when they go past highway weight stations. A SafeStat score of 50 to 74 mean an inspection is optional and a score of 49 or lower mean the carrier can pass with no inspection, Crippen said.

Differences in the way carriers operate also can have a bearing on insurance claims and costs, said Don Peterson of Whitestone Management Group, an insurance agency based in Stockton, California. Peterson said things such as the type of freight hauled, where the trucks run and who is being hired are rarely factored into premium calculations.

As an example, he said, a truckload carrier hauling auto parts from the West Coast to St. Louis using team drivers might pay the same rate as an irregular route truckload carrier based in Nebraska that uses a single driver because both are considered longhaul truckload carriers. “In fact, the Nebraska-based carrier should pay less,” Peterson said. That’s because the carrier’s single truck is covering fewer miles than the team truck drivers.

Some of the criteria used by insurers to determine risk – distance traveled and geographic location – still make sense, said John Watson, a practice leader in Great Falls, Mont., for Chicago-based insurance brokerage firm HUB International. “The farther you go, the higher your premium will be,” he said. “It costs more if you are going to Los Angeles than [staying in] Butte, Montana.”

However, Watson said he sees insurers beginning to look more closely at other factors, such as driver retention, drivers’ age and their experience level. “Insurers are getting more sophisticated in choosing risks and how they price them,” he said.

“I’m looking to see if 90% of drivers have three or more years,” Watson said. “I’ve never heard of insurers asking about qualifications of the maintenance staff,” he said. “Are they all recent graduates of vo-tech schools? Or are they all guys with 30 years experience? If they are, they deserve a break on insurance because good maintenance will prevent accidents.”

Bottom line: Pay more attention to safety issues and save real dollars at insurance renewal time!

FUTURE INTERSTATE TRUCKING CASES MAY BE HELPED BY MAINE LAW

A recent appeals court ruling upholding an earlier decision to overturn a Maine tobacco delivery law that altered freight operations will likely help the trucking industry in future cases in New Hampshire, Massachusetts and Vermont.

The U.S. Court of Appeals for the First Circuit upheld an earlier ruling that a 2003 Maine law requiring retailers selling tobacco products to use only carriers that follow guidelines such as requiring a signature from package recipients.

“The Maine case gave us a very wide scope” in the interpretation of state laws that affect trucking operations, said Bob Digges, deputy general counsel for American Trucking Associations. “It’s a good tool in combating” state laws which, “try to regulate rates, routes and services.”

A spokesman for Maine Attorney General Steven Rowe told the Bangor Daily News he is considering an appeal of the decision to the U.S. Supreme Court. He also called on Congress to take steps to ensure delivery companies, including the U.S. Postal Service, cannot deliver tobacco products to minors.

In the litigation, trucking associations pointed to parcel delivery firm UPS Inc. as an example of how the law forced carriers to change their operations.

Before the new law, UPS did not require its drivers to deliver packages to the designated addressee only, and often did not require a signature from the recipient. UPS stopped delivering all tobacco products to Maine consumers because they could not change delivery procedures. Maine is one of 16 states that have passed laws restricting home-delivery tobacco sales.

The appeals court found Maine’s tobacco-delivery law has “a forbidden” effect on UPS and other carriers because they “would have to adopt procedures that would alter delivery practices for certain packages.”

BIG DIG HAS ANOTHER BIG PROBLEM

No one is arguing the fact that there's water flowing into the tunnels of Boston's Big Dig project – which carries major sections of Interstates 95 and 93 below the city and below Boston Harbor.

The Associated Press reported that more than a million gallons of water per month got into the tunnels during the first four months of 2006. That's more than 27 times the allowed amount of 36,000 gallons, as stated in the project's permit from the Massachusetts Water Resources Authority .

By contrast, about 6.75 million gallons, or about 1.6 million gallons per month, poured into the tunnels during the first four months of 2006. Those numbers include water trucked in to wash tunnel walls, rainwater, snow and ice falling off vehicles, and leaks in the tunnels.

The Water Resources Authority has ordered the Massachusetts Turnpike Authority to detail how much water is coming from which source, a task the Authority said may be impossible.

TRIO FINDS WAYS AROUND RISING DIESEL PRICES



For Kumar, Latke and Slobodan, growing diesel prices have not been a factor in their vegetable transport business. As diesel prices teeter around \$3.00 a gallon, the only fuel needed for transportation is hay for the one-mule powered truck. The truck can carry a trailer for the produce. Latke and Slobodan occupy the cabin, while Kumar rides in the old engine compartment to keep Dominic (the mule) in line during long trips. Slobodan says their way of transportation will probably be around for a while, as prices remain so high. “It is slower than our old diesel powered truck but the difference is made up by our savings in fuel,” said Latke

Above, Latke, Slobodan and Kumar (center) are pictured taking their new vehicle for a spin after it was recently finished.

TRANSTRENDS is published monthly for friends and clients of the Translaw Group, Inc. The information provided in this newsletter is not intended as specific advice on a particular subject. Rather, the information is for general edification. Further, this information is time sensitive and may need to be revised and updated from time to time. Please feel free to call this office with your specific questions at 413 781 8205, or you may e-mail the office at jburns@transregs.com.