

# TRANSTRENDS



THE TRANSLAW GROUP, INC.

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## FUEL LINE

Each issue we will feature as the first item the **FUEL LINE** which will alert you to those states that are planning tax increases, toll hikes and other fees.

### MA DOR EXCISE TAX OBLIGATION

MA DOR ST-10 filing requirements are, generally, unknown within the motor carrier industry in regard to the affect of the excise tax on the value of fuel consumed on the Massachusetts Turnpike where the miles were adjusted on the International Fuel Tax Agreement fuel tax return. Basically, the State wants its use tax on the fuel that is backed off of the IFTA return when MA Pike miles are not reported. MA Pike miles are exempt from IFTA, however, MA state law allows for the collection of the use portion of the highway use tax.

It is always better to deduct your toll miles and pay the excise tax. This procedure affects MA based and non-MA based IFTA registrants. Obviously, I must advise all tax payers that they must file the return. Clients who use TAXTRAK™ our fuel tax reporting service will automatically receive the tax filing in early February for filing no later than April 17, 2006.

### NO SKID ZONE

Bill O'Reilly may have the "No Spin Zone" but the Translaw Group has the "No skid Zone". Each issue will highlight the absurdity of a particular rule, regulation, law or government action that just doesn't make common sense.

### THE DUKES OF TENNESSEE

*This item was just too good to pass upon. What the hell is going on in Tennessee. It's the classic case of the wolves watching the hen house. Read on...*

An ongoing investigation by a Tennessee newspaper spiraled into the suspension and investigation of three of the state's highway patrol officers in one week. On Thursday, Dec. 5, Trooper Ronald D. Seay was placed on administrative leave, after an Internal Affairs investigation discovered that his ex-wife's embroidery company was doing work for the Department of Homeland Security, a violation of patrol policy.

The day before Seay's suspension, troopers Vincent Turocy and Joseph Agee II were placed on leave, for their management of [statrooperstore.com](http://statrooperstore.com), which supplied the patrol with merchandise, which also violates ethics policies.

Earlier this month, The Tennessean uncovered possible breaches of conduct in the patrol's Memphis bureau. On Tuesday, Jan. 3, the newspaper reported that an unnamed patrol officer was being examined for having "inappropriate relations" with female prison inmates who performed custodial duties in the patrol's Memphis office, and those officers also allowed the inmates to access private information on the patrol's computers.

The patrol's Internal Affairs department interviewed patrol officers as a follow-up to an anonymous tip about the unethical behavior. "The only specific thing (the anonymous tip) does allege is that it is a supervisor, that there was possibly some inappropriate activity taking place with female inmates and perhaps female inmates had access to too much information," Internal Affairs Capt. Dereck Stewart told the newspaper.

The investigation is not the first to find possible sexual wrongdoing in the patrol. In December, The Tennessean reported that Sgt. Gregory R. Badacour – who in August 2004 was arrested for filming people having sex at a local lookout point – was given a one-day suspension for his actions, and is still working as a patrol officer at the state Capitol.

Badacour pleaded guilty to filming one couple and was placed on probation; while his police file says he filmed at least nine other couples. He also admitted to clicking on a child pornography Web site link on a computer. However, his record with THP only mentions the one guilty plea, despite being informed by the local police of the other incidents, The Tennessean reported.

Although Badacour does have a criminal record, he's certainly not the only one in THP. *The Tennessean* found that 48 of the state's more than 800 troopers had some type of charges on their criminal record, including felony charges and suspended driver's licenses. The paper also found that two-thirds of all officers in the patrol had made some sort of campaign contribution, and about half of those were promoted over troopers with better test scores. The investigation eventually led to the resignation of three higher-ups in the patrol, including Lynn Pitts, former head of the patrol, who resigned after the criminal record bombshell was dropped by the newspaper.

After stepping down, Pitts also fingered Deputy Gov. Dave Cooley – the second in command in the state’s government – saying he was involved in cronyism and was often consulted when it came time for high-level promotions within THP.

Additionally, *The Tennessean* uncovered the story of Jerry Dean Watson – a former “trooper of the year” – who’d been convicted of a felony and resigned from the THP in November 2001, only to be hired back in January 2003. His crime? Forging a judge’s signature to get out of a speeding ticket.

*It seems to us that it is more difficult to undergo the TSA background check when renewing your CDL hazmat endorsement than to become a TN state trooper.*

**WHAT DID I VOTE FOR?**

A pair of West Virginia state lawmakers say they had no idea a bill they approved last year would contribute to toll increases on the West Virginia Turnpike. Sounds like these two gentlemen are eligible to be Federal legislators. The toll boosts, approved this month, came under fire from several legislators and business owners claiming the increased tolls are an unfair burden on southern West Virginia residents and companies that use the 88-mile highway that stretches from Charleston to Princeton.

State Sens. Jesse Guills and Don Caruth said they had no idea the Shady Spring project, a 55 million dollar interchange at Shady Spring, was included in the legislation, or that it would lead to higher tolls. “That’s the first I ever heard of it,” Caruth told The AP. “We can’t possibly know what’s in every bill, especially in funding bills. If I missed this, shame on me.” “I’ve got egg on my face,” Guills added.

*Do you think these pols should spend some time doing a little more homework?*

**BLAME IT ON THE BIG TRUCKS**

According to a brand new state study, overweight trucks are causing tens of millions of dollars in road damage each year in North Carolina, and a state representative wants to do something to lessen the damage and recoup costs.

The study determined that trucks weighing more than 40 tons caused nearly \$130 million in damages in a year in all road categories. The author of the study, Judith Corley-Lay, stated heavy trucks caused roads to fail up to three years earlier than anticipated, which leads to more frequent overlays and repairs.

*Sounds like someone in NC is trying to come up with a new “fat” tax for big scary trucks!*

**IMPORTANT TAX DUE DATES ON THE HORIZON**

MISCELLANEOUS TAX FILINGS		
TAX TYPE	STATE	DUE
BUSINESS TAX (GROSS RECEIPTS)	NEW YORK	ESTIMATE (90% TAX PAID) BY MARCH 15

BUSINESS TAX	NEW JERSEY	MARCH 15
BUSINESS TAX	PENNSYLVANIA	MARCH 15
PROPERTY TAX	ARKANSAS	MARCH 31
PROPERTY TAX	KANSAS	MARCH 20
PROPERTY TAX	KENTUCKY	APRIL 15
ST-10	EXCISE TAX ON VALUE OF FUEL CONSUMED ON MA PIKE FOR WHICH A DEDUCTION WAS TAKEN FOR MILES/TOLLS	APRIL 15

Each of the above listed states is active in making sure carriers comply with the rules and regulations affecting each jurisdiction's tax regulations. It is important to note that Pennsylvania and New Jersey will actually impound your vehicle until you pay them a small "ransom" at which time you will still be required to file the requisite tax filings going back, generally, three to five years.

You can, however, join an amnesty program in PA and NJ wherein you can make your intentions known that you will comply and those states will put you on a special list that will preclude on-the-road enforcement as long as you comply with the amnesty program. This office routinely handles such matters for those carriers who want to take advantage of the amnesty relieve. Call the office for further details.

The tax regulations may seem unfair and un-enforceable; however, many carriers have tried to escape the tax only to be "caught" on the road. Please feel free to call this office to discuss your particular situation.

### JUDGE OKS AUCTION OF TRUCKING COMPANY ASSETS

A Connecticut judge has given the go ahead on plans to auction off assets belonging to American Crushing and Recycling, though there's still some debate as to exactly what those assets are.

The judge approved the auction in late December in order to help raise funds to pay off creditors and the victims of a deadly crash involving one of the firm's trucks July 29 at the base of Avon Mountain where Route 44 intersects with Route 10. David Wilcox, owner of the company, claims many of the items listed by a court-appointed receiver belong to him, not the company.

Attorney Matthew Beatmen, the court-appointed receiver, said he believes an auction could raise between \$1.2 million and \$1.4 million. He said as much as \$500,000 of that would be available for victims of the crash.

*Part of Mr. Wilcox's problem is that he has commingled his personal assets with business assets. He can't have it both ways. Besides, \$500,000.00 is not enough money for the four families that lost loved ones in this accident. Read on...*

### WILCOX TRIES TO HAVE CASE DISMISSED

Now, Mr. Wilcox attempted to have the case against him dismissed. He has been charged with attempted insurance fraud and numerous safety violations following the July 29, 2005, crash in which a truck from his company slammed into 20 cars, killing four people including the driver of the truck.

The company has also been fined nearly \$50,000 by the IRS because the truck involved in the crash had dyed fuel in its tank. David Wilcox blamed the driver – who was killed in the crash – for filling the truck with the wrong fuel. The judge assigned to this matter has approved auctioning assets from American Crushing and Recycling to help raise money to pay the victims and families of victims in the case.

*What a cheap shot to blame the dead guy for buying the wrong fuel. We suppose no one thought to look at the sales receipt or to interview the seller of the dyed fuel. Our guess is that it came out of a tank owned by Mr. Wilcox.*

### BIG DIG = BIG DOLLARS

Boston's Big Dig project is certainly living up to its name, BIG. A new U.S. Department of Transportation memo uncovered by The Boston Globe indicates that those costs are going to get even bigger. An internal memo indicates that costs of the project could rise by as much as \$75 million, in addition to the already \$14.6 billion price tag attached to this mammoth project.

If correct, the memo would represent the first increase in the Big Dig's overall cost since 2001, according to The Globe. At that time, it was revealed that project overseers had hidden more than \$2 billion in cost overruns. And with federal funding for the project holding at \$8.5 billion, any increases would have to be paid for by Massachusetts taxpayers and toll payers, The Globe reported.

*Believe it or not, as Ripley often said, there are many Bostonians that got their first job in construction on the Big Dig and also received their first retirement check as well. Where else can you get such good job security these days?*

### MAINE COURTS TO SEE TRAFFIC INCREASE

Thanks to a computer switch, Maine's traffic courts are scheduled to handle some 14,000 motor vehicle violation cases in the next 60 days.

The bureau handles all civil infractions of the state's motor vehicle statutes, including those issued by local police, sheriff's deputies and the state highway patrol. Court Administrator James Glessner said that switching over to the new system – and training people to use that system – slowed down the ability of the courts to process cases.

To help process the caseload, the busiest district courts in the state – in Bangor, Belfast, Lewiston and Ellsworth – have scheduled "blitz days" when 200 cases are scheduled to be heard by each court in one day.

*It sounds like they will need the acrid assistance of Judge Judy to clean up the docket.*

### RED LETTER DAY FOR YELLOW

Yellow received a very favorable ruling when the 3<sup>rd</sup> US Circuit Court of appeals agreed with a trial court that Yellow is not liable for more than one million dollars in damage suffered by one of its shippers, S & H Hardware & Supply who was late in filing a loss and damage claim.

Generally you have 9 months in which to file a claim against a motor carrier. However, if you are operating under a contract carrier agreement your time period may be less than 9 months if you agreed, unwittingly or not, to a shorter time period. Shippers must be aware of the time limits for filing claims. Shippers, check your contracts to see where you stand when it comes to filing freight claims.

*It would be our guess that S & H Hardware & Supply is either looking for a new traffic manager or already has a new traffic manager.*

### HOURS OF SERVICE UPDATE

The Federal Motor Carrier Safety Administration has denied the Owner Operator Independent Drivers Association (OOIDA) petition to amend the current hours of service rules. Now the OOIDA has decided to sue the venerable agency specifically over the sleeper berth rules. OOIDA is tenacious when it comes to litigation. The Federal Motor Carrier Safety Administration had denied all petitions that were filed concerning the new rules. It can certainly be expected that a diverse group of strange bedfellows will join OOIDA in its suit.

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