



TRANSPORT CENTER UPDATE

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UPDATE-HOS Status

The final HOS regulations were anticipated to be issued by the end of October. However, at the ATA Safety Conference in Albuquerque last month, a FMCSA official indicated that the final regulations would be published by the end of November. You can get an overview of the proposed changes by listening to the 20 minute webinar posted to our webpage. To view the webinar click [here](#). To view other webinars and resources on our webpage click [here](#).

Highlights from M&K's Seminar

On September 28, 2011, M&K hosted its annual seminar on trucking safety and litigation issues. M&K was pleased to have Natalie P. Hartenbaum, MD, MPH, FACOEM, the president and Chief Medical Officer of OccuMedix, Rebecca Brewster, the president and COO of the American Transportation Research Institute and Pam Jones with Vigillo share their knowledge and expertise.

Pam Jones with Vigillo spoke on CSA. She highlighted what the CSA data is telling us. She also spoke on future changes with CSA. She also pointed out that CSA is a work in progress with FMCSA making modifications and improvements as necessary. Some of the future changes include a change in the basic categories. Hazmat will become its own basic category and cargo securement will move under the maintenance



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M&K Upcoming Events:

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basic. She also anticipates that the weight severity of a violation will move from a 1 to 10 scale to a 1 to 3 scale.

At this time, carriers cannot remove a crash from their CSA score, unless they are incorrectly listed as being involved in the crash. It is anticipated that in the future carriers will be able to challenge a DOT crash listed on their CSA score if it was non-preventable crash. Ms. Jones also pointed out that if a carrier has non-preventable accidents on their CSA score and the carrier is subject to a compliance review, the carrier should ask the investigator to review their record without the preventable accident.

Next, Natalie Hartenbaum, MD, spoke regarding Commercial Medical Examinations. She highlighted current issues and future changes with respect to commercial medical examinations. The Final rule on the changes to the commercial medical examinations is expected by the end of 2011. You can track the rule making process through <http://www.nrcme.fmcsa.dot.gov>. At this time, no criteria has been finalized by the National Registry of Certified Medical Examiners (NRCME) so no medical examiners have been certified yet.

Another anticipated change she highlighted is with respect to drivers who are on insulin. Currently, a driver who has been diagnosed with diabetes and is on insulin, may only drive after being approved through the exemption process. It is anticipated that in the future it will be the medical examiner who will be able to qualify a driver who is insulin dependent.

Dr. Hartenbaum reminded carriers that the medical long form is governed by HIPPA and a carrier should be careful not to have a non-qualified individual disqualify a driver from driving. She also suggested that carriers have a policy for medication use by drivers (however not a list of disqualifying medications) and that carriers collaborate with the medical examiners.

Rebecca Brewster spoke regarding CSA, driver crash prediction, and ATRI research findings.

Upcoming Events in the Industry:

Oct. 4th-5th - 2011 Supply Chain Security and Law Enforcement Conference and Exhibition, in Atlantic City. For more info click [here](#).

Oct. 13th - Women's Transportation Networking Roundtable, at the USDOT building in Washington, DC.

Oct. 15th-18th - ATA Management Conference & Exhibition, in Grapevine, TX. For more info click [here](#).

Oct. 16th-22nd - CVSA's Operation Safe Driver.

Oct. 29th - Convoy for a Cure, in Hillsboro, TX. For more info click [here](#).

Updated ATRI Compendium of Idling Regulations

ATRI has updated it's Compendium of Idling Regulations. The ATRI has compiled a list of state and local regulations regarding idling. In order to obtain a copy click [here](#).

ATRI conducted a study regarding the knowledge of drivers and carriers have on CSA. You can request a copy of the report on the driver study through ATRI's website by clicking [here](#). The carrier results will be released in the next week or so.

Ms. Brewster also highlighted ATRI's 2011 crash predictor study, which was an update of a previous study performed in 2005. The new crash predictor study looked at crash data and conviction data for the years 2008-2009 to predict which driver behaviors will increase the likelihood of a crash. One significant change between the 2005 study and 2011 update was that no one behavior greatly increased the likelihood of a crash, unlike in the 2005 study where reckless driving significantly increased a driver's chances of being involved in an accident. The study report has not yet been released. For more information click [here](#).

ATRI is in the process of preparing studies on freight bottleneck analysis and mapping rollovers. The freight bottleneck analysis is looking at the most congested roadways and the time of day that a specific roadway is congested. The report will be detailed enough to indicate the average speed of a tractor trailer at any given time on a section of the roadway in order to better navigate the roadways. The mapping rollovers study will highlight the locations where the most tractor trailer rollovers occur. It is anticipated in the future that this may be used to allow a GPS system to warn a driver that they are entering a high rollover area.

If you have any suggestions for future studies, Ms. Brewster asked that you contact ATRI. You can even suggest a research topic through ATRI's website by clicking [here](#).

Partner Doug Marcello was the last speaker of the day and spoke on aggressive defense of medical claims. Attorney Marcello highlighted the benefits of finding an expert with expertise in the specific area of medicine that deals with the plaintiff's alleged injuries.

Documents and Resources Available From M&K

If you are interested in obtaining copies of the following, please call or email.

- Hours-of-Service Rules Safety Impact 2010 Analysis compiled by ARTI in May 2010

- Accident preparedness DVD and/or forms

- Powerpoint presentation regarding CSA 2010 presented by ATA

- Powerpoint presentation by Dr. Hickman regarding Distracted Driving Study presented at M&K Seminar

To see M&K's recent case results and articles click [here](#).

Other Resources

FMCSA Distracted Driving Instructional Videos click [here](#).

[PA Motor Trucking Association](#)

[American Trucking Association](#)

[Trucking Industry Defense Association \(TIDA\)](#)

He stressed the importance of obtaining a complete set of medical records on a plaintiff. When a complete set of medical records is obtained and analyzed chronologically, it provides a more complete picture of the plaintiff's actual treatment, rather than looking at each provider's records separately. Also, by subpoenaing the medical providers rather than relying upon the medical records provided by the plaintiff ensures that a complete set of documents are received. This will assist a defense medical expert in preparing a complete history and report.

Early action in a case can make a difference. An early Independent Medical Examination may make the examination report more credible. Rather than asking a jury to rely on an examination that was done years after the accident. Also, early surveillance on the plaintiff can outweigh the costs of such surveillance.

Thank you to all of the members of the trucking community who were able to attend. We truly appreciate your support and hope that the seminar provided insightful and helpful information. For those who were unable to make it, we hope this summary is helpful.

Final Rule on Federal Drug Testing Custody and Control Form

On September 27, 2011, USDOT published a final rule in the Federal Register regarding the use of the Federal Drug Testing Custody and Control Form (CCF). The final rule was effective on September 27, 2011. This final rule finalizes the authority to use the new CCF and to amend a previous provision regarding drug testing procedures which had been omitted from a previous final version of the rule. The prior CCF may continue to be used until November 30, 2011. After November 30, 2011, the new CCF must be used. The final rule may be viewed by clicking [here](#).

[Federal Motor Carrier Safety Administration](#)

[PA Travel Information To-Go](#)

[National Traffic and Road Closure Information](#)

For more resources click [here](#)

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QUOTE OF THE MONTH

"It is only the farmer who faithfully plants seeds in the Spring, who reaps a harvest in Autumn."

~B. C. Forbes

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Please let us know if you requested a copy of Jerry Waddell's control chart or other informative DVDs and documents from our

Following Fatal Crash NTSB Recommends Ban On All Cellphone Use By Commercial Drivers

In a September 13, 2011 press release the National Transportation Safety Board recommended that FMCSA ban all cell phone use by a commercial motor vehicle driver, except in emergency situations. To view a copy of the press release click [here](#). The recommendation comes following NTSB's investigation into a fatal accident that occurred in March 2010 in Kentucky and resulted in the deaths of the truck driver, passenger vehicle driver and nine of the eleven passengers in the passenger vehicle. A synopsis of NTSB's report regarding the accident is available on NTSB's website. To view the synopsis click [here](#).

Free Presentations for Your Driver Meetings

We provide FREE presentations at driver's meetings geared toward our client's topics of interests. Recently, we finished filming a mock trial cross-examination of a driver as part of a new presentation.

Please let us know if you are interested.

About Our Firm

Founded in 2005, **M&K, LLC** is dedicated to and focused upon transportation law and the needs of their transportation clients. Since opening in 2005, **M&K, LLC** has expanded its office to provide clients with the attention and availability they deserve.

office and have not yet received them. Recently, we made upgrades to our computer system which may have resulted in your request inadvertently being misplaced or lost. Upon notification, we will promptly see that you receive the requested information. Our apologies for the delay and inconvenience.



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