

# *Driving During the Winter Months*

*A summary of the laws that affect commercial motor vehicle drivers*

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The winter season is upon us once again. With winter comes the potential for snow and adverse weather conditions. A snow storm or adverse weather condition may affect many aspects of the trucking industry, including potentially delayed shipments and deadlines and problems for driver safety. It also includes the potential for the increase in the amount of accidents and damage caused by drivers. According to the U.S. National Highway Traffic Safety Administration, in 2006 there were approximately 116,000 accidents nationwide where ice or snow was present. Out of those accidents about 93,000 involved only property damage and about 22,000 involved injuries. This data shows that due to the amount of accidents caused by snow or adverse weather conditions, safety during the winter is of utmost importance.

Due to the amount of problems that can be caused by snow and adverse weather conditions, there are many laws and regulations that affect trucking company's actions during the winter months. Drivers should be aware of these laws to avoid citations and to protect fellow motorists. Drivers should also be aware of the laws in all states they are driving through, as the laws differ from state to state.

One problem that snow and adverse weather brings is the accumulation of snow and ice on the commercial motor vehicle. Snow and ice falling from the roof of a commercial motor vehicle is something that has the potential to cause accidents and damage to other vehicles. Even though it may be difficult to remove snow and ice from the roof of a commercial motor vehicle, drivers should take all reasonable precautions to avoid any potential issues due to the falling of snow and ice. A 2008 study done by ATRI on the accumulation of snow and ice discusses several methods for the removal of snow and ice from commercial motor vehicles. See <http://www.atri-online.org/research/results/ATRITRBSnowIce.pdf>.

In Pennsylvania, under 75 Pa.C.S. § 3720, when snow or ice falls from a moving vehicle and hits another vehicle or a pedestrian and causes death or serious bodily injury, the driver of the vehicle is subject to a fine of \$200-\$1,000 for each offense. 75 Pa.C.S. § 3720.

The nature and severity of potential charges will vary by state. If the falling of snow or ice causes an accident, it may also give rise to a potential lawsuit.

There are two proposed bills that have been introduced in the Pennsylvania Senate that seek to amend § 3720. Senate Bills 745 and 746 both will add a fine for instances when there is no death or serious bodily injury and will also increase the fines for a violation.

Another regulation that affects winter driving is a FMCSA regulation which requires more safety during adverse weather conditions. According to 49 C.F.R. 392.14:

[e]xtreme caution in the operation of a commercial motor vehicle shall be exercised when hazardous conditions, such as those caused by snow, ice, sleet, fog, mist, rain, dust, or smoke, adversely affect visibility or traction. Speed shall be reduced when such conditions exist. If conditions become sufficiently dangerous, the operation of the commercial motor vehicle shall be discontinued and shall not be resumed until the commercial motor vehicle can be safely operated.

49 C.F.R. 392.14. The rule requires extreme caution when there are hazardous conditions that affect visibility and traction. It also requires drivers to slow down during inclement weather and to pull over to the side of the road if sufficiently dangerous conditions exist.

Additionally drivers should be aware of an exception to the hours of service rule in adverse weather conditions. If a driver encounters adverse weather conditions, and due to those conditions cannot safely complete their run within the maximum driving time of eleven hours, the driver may drive up to an additional two hours in order to reach a place offering safety for the driver and security for the commercial motor vehicle and its cargo. 49 CFR 395.1(b). This exception does not mean that a driver can drive longer due to bad weather. The exception only applies when a driver cannot safely stop within their eleven hour driving time.

The regulations and laws on idling also have increased significance during the winter months. Drivers, especially those sleeping in their vehicle, may want to leave their vehicle running so that they have heat due to the cold winter temperatures. However, due to environmental concerns, idling reduction has been important and many states have enacted laws limiting the amount of time a commercial vehicle can idle.

In 2009, Pennsylvania enacted the Diesel Powered Motor Vehicle Idling Act. 35 P.S. § 4601 et seq. Under the Act, the maximum amount of idle time is five minutes for every one hour period, unless the Act indicates otherwise. 35 P.S. § 4603(a).

Exemptions include idling fifteen minutes for every one hour period if the vehicle is engaged in sampling, weighing, loading, or unloading. 35 P.S. § 4603(C) (12). Other exemptions include traffic conditions, to prevent safety or health emergencies, to comply with the manufacturer's specifications, emergency or law enforcement purposes, maintenance or repair, government or security inspections, power work-related operations, mechanical difficulties, and vehicles with

CARB low-NOx idle labels. 35 P.S. § 4603(c). When the Act was first passed there was an exemption for tractor-trailers with a sleeper berth with air conditioning or heat during rest or sleep periods when the temperatures were below 40 degrees or above 75 degrees. However, this exemption expired in 2010. 35 P.S. § 4603(c)(11). There is an exemption for buses with passengers, which may idle for fifteen minutes in a one hour period to provide heating or air conditioning. 35 P.S. § 4603(c)(10). The fines for violating the Idling Act include \$150-\$300 per offense plus potential civil penalties up to \$1,000 per day for each violation. 35 P.S. § 4605.

There is currently no exemption under the Idling Act in Pennsylvania due to colder temperatures. Drivers should be aware of this and plan accordingly if they need heat during the winter while they are in their sleeper berth. The only exemption that may apply is the exemption for safety or health emergencies. This exemption may apply during a weather emergency when a driver cannot reach shelter. As the idling laws vary by state, drivers should be aware of the idling laws in the states they are driving through.

An important thing to remember when there is inclement weather is to plan ahead and to check the vehicle ahead of time. Before driving, drivers should make sure to clean off the vehicle as much as possible, because more snow and ice will continue to build up on the vehicle during driving. Also, if there is inclement weather or inclement weather is expected, drivers should plan on a location to rest and be aware of the idling laws. Drivers should make sure that the vehicle is in good working condition and that all fluids are full. Drivers should keep a safe following distance in inclement weather so that there is adequate time to stop and avoid any accidents for following too closely. Also if a driver plans on driving throughout a number of states, he needs to make sure that he is aware of the laws throughout those states on the falling of snow and ice from the vehicle and the laws on idling. Most important is to make sure that the drivers stay safe during the winter months.

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