



TRANSPORT CENTER UPDATE

July 2013

Vol. 5, Issue 5

CVSA Guidance on "Chafed Air Hoses"

Chafed air hoses. Your driver is pulled over, subject to a level one inspection, and calls you with the results-all is good EXCEPT he was written up for "chafed air hoses."

You now have a mechanical issue and CSA points. Often, you have a question as to what is the problem with the air hoses.

CVSA has issued regulatory guidance as to "[w]hen should air hoses not be documented as a violation for chafing?" The answer is that no violation should be written up unless the inspector can see a reduction in the hose diameter.

A violation arises when the damage extends to or through the outer reinforcement ply.

It is NOT a violation, according to the CVSA if the hoses rest on or lightly rub on parts of the vehicles. If observed, the inspector is to advise that while not a violation, it could lead to one in the future.



MK CONTACT INFORMATION

Marcello & Kivisto, LLC
1200 Walnut Bottom Rd.
Third Floor, Suite 331
Carlisle, PA 17015

T: (717) 240-4686

F: (717) 258-4686

www.cdl-law.com

[Transportation Legal News
Blog](#)

Douglas Marcello, Esq.
dmarcello@cdl-law.com

Sonya Kivisto, Esq.
skivisto@cdl-law.com

Angela N. Rainey, Esq.
arainey@cdl-law.com

Alyssa Adams, Esq.
aadams@cdl-law.com

Jennifer Mulligan, Esq.
jmulligan@cdl-law.com

M&K Upcoming Events:

For more current updates on events, follow M&K on [Facebook](#) and [Twitter](#).

Further, it is NOT a violation if the thermoplastic nylon tubing is discolored or faded but not damaged. Unless observable damage extends to or through the outer reinforcement ply, it is NOT a violation even if the hose is found to have a reduction in diameter but is no longer chafing.

Several thoughts. First, educate your drivers and mechanics as to the interpretation. They need to know when they have an issue on a pretrip to avoid an unnecessary violation.

Second, teach the driver's how to deal with an inspection. Take photographs just as they would an accident. Call you immediately so that you can address this with the inspector while there is still a possibly of avoiding the writing up with a polite dialogue. Perhaps the inspector has not been updated-be prepared to politely do so.

Third, give serious consideration to joining CVSA. It provides invaluable information as to the out-of-service criteria and equipment issues.

Our firm has been a member for years. CVSA has been a great resource of equipment issues.

Hopefully, the CVSA interpretation will put everyone on the same wavelength and provide relief from chafing...of the airlines.

FMCSA Guidance for Breaks

The FMCSA has revised its 1997 interpretation to provide guidance and clarification for the

Upcoming Events in the Industry:

August 20th-24th - National Truck Driving Championships -
Hosted by ATA - Salt Lake City, Utah - for more information click [here](#).

August 22nd-24th - Great American Trucking Show -
Dallas, TX - for more info click [here](#).

FMCSA Cab Card on New HOS

FMCSA has put out an updated cab card with information on the HOS rule changes that occurred in February and the ones that became effective July 1st. You can get a printable version of the cab card by clicking [here](#).

Webinars On-Line

Several 20 minute webinars on key issues in the trucking industry have been posted to our webpage. These are audio/video presentations that explain the issues and the challenges they present to the trucking industry.

taking of the 30 minute breaks required by the new regulations effective July 1, 2013.

The 1997 guidance included two requirements as follows:

1. The duration of the driver's relief from duty must be a finite period of time which is of sufficient duration to ensure that the accumulated fatigue resulting from operating a Commercial Motor Vehicle (CMV) will be significantly reduced.
2. If the driver has been relieved from duty, as noted in (1) above, the duration of the relief from duty must have been made known to the driver prior to the driver's departure in written instructions from the employer. There are no record retention requirements for these instructions on board a vehicle or at a motor carrier's principal place of business.

These have been removed.

The requirements are now reduced to two requirements for when a driver may record meal or other routine stops, including a required 30 minute rest break as "off duty":

1. The driver is relieved of all duty and responsibility for the care and custody of the vehicle, its accessories, and any cargo or passengers it may be carrying.

The topics are as follows:

Aggressive Defense
of Trucking
Accidents

New Hires and PSP

CSA

We also have two 5 minute PowerPoint presentations posted to our website regarding information concerning the HOS changes effective in July.

You can view the webinars by clicking [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.

2. During the stop, and for the duration of the stop, the driver must be at liberty to pursue activities of his/her own choosing.

The FMCSA summarized the affect as follows:

Through the revision of the regulatory guidance, FMCSA makes clear that the motor carrier need not provide formal guidance, either verbal or written, to drivers with regard to the specific times and locations where rest break may be taken. The revised guidance also emphasizes that periods of time during which the driver is free to stop working, and engage in activities of his/her choosing, may be recorded as off-duty time, irrespective of whether the driver has the means or opportunity to leave a particular facility or location. All previously issued guidance on this matter should be disregarded if inconsistent with today's notice.

The clarification recognizes the reality imposed by the required 30 minute break--the driver needs flexibility to comply with the rule.

HOS Regulations Effective

7/1/13

By now you are aware of the changes effective July 1st - a required 30 minute break after 8 hours on duty and a revised 34 hour restart with restrictions (once every 168 hours and must include two periods from 1 a.m.-5 a.m.).

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 \(TIDA\)](#)

[Federal Motor Carrier Safety Administration](#)

[PA Travel InformationTo-Go](#)

We have developed two 5 minute narrated powerpoints-one for each rule-to help explain these rules to your drivers, your shippers, your brokers, and others who they impact. These can be found our website by clicking [here](#).

Please feel free to download them and share them.

Hauling Hazardous Materials Through Pittsburgh?

If you haul hazardous materials near Pittsburgh, you may need a permit. You can obtain a permit through the Bureau of Fire in Pittsburgh's Department of Public Safety. To find out more information regarding permits to be obtained from the Bureau of Fire you can visit their website at http://pittsburghpa.gov/fire/permit_info.htm. Also, to obtain a copy of the permit application you can click [here](#).

Some questions have been raised as to whether the permit requirement being imposed by Pittsburgh is proper. Currently, PMTA and ATA are working to determine whether the permit requirement is proper. In the meantime, commercial motor vehicle carriers and drivers who are hauling hazardous materials within the city limits of Pittsburgh should be aware of the current permit requirements.

M&K Truck News Blog

Truck News now includes a blog by Doug Marcello. Posted bi-weekly, the posts will provide information and updates on issues of importance to our industry. You can find the blog

[National Traffic and Road Closure Information](#)

For more resources click [here](#)

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.

STAY CONNECTED:

You can now follow, M&K, LLC on the web!



[Transportation Legal News Blog](#)

Quote of the Month:

"A perfect summer day is when the sun is shining, the breeze is blowing, the birds are singing, and the lawn mower is broken."

~ James Dent



at <http://blog.trucknews.com/author/doug>. Truck News blog provides other writers with insight and perspective of the various challenges of our industry.

M&K Rewind

We realize that topics we have covered in previous newsletters may come up again for our clients. Therefore this section will provide information on topics we have previously covered but are still relevant today.

There is No Commercial Vehicle Exception to Limited Tort in Pennsylvania

In 1990, Pennsylvania introduced a choice no-fault law under the Motor Vehicle Financial Responsibility Law Amendment. Pursuant to this law, a person buying automobile insurance coverage has choice to purchase limited tort or full tort coverage. When a person purchases full tort they have unrestricted rights to bring a lawsuit against a negligent party involved in a motor vehicle accident. A person who has selected limited tort coverage is limited to recovery economic damages only, i.e. medical bills, lost wages, and cannot recover for pain and suffering.

The law, however, does provide for exceptions that will allow a person who has selected limited tort coverage to seek damages as if he/she had full tort coverage. Recently, our firm has handled a case where a party was under the impression that solely because the accident involved a commercial motor vehicle the limited tort plaintiff was no longer limited to economic damages.

However, there is no commercial vehicle exception to the limited tort election and being involved in a motor vehicle accident with a commercial motor vehicle will not automatically allow a limited tort plaintiff to sue for more than just economic damages. Rather, the plaintiff will need to establish that another exception under the Motor Vehicle Financial Responsibility Law applies to overcome the limited tort hurdle.

DISCLAIMER: The Information Contained in this Newsletter is NOT Legal Advice.

