

PERSONAL CONVEYANCE

By Doug Marcello, Marcello & Kivisto, LLC

A Supreme Court Justice declined to define “pornography”, instead noting, “But I know it when we see it”. This appears to the FMCSA’s approach to “personal conveyance” in their proposed guidance.

“Personal conveyance” has long been an issue in our industry. How far? How much time? From where? To where?

“Personal conveyance” has had as many definitions as there have been trucking companies and drivers that use it. It has been construed in a way to reconcile the limits of driving and “on duty” time to meet the needs of a particular type of activity.

The advent of ELD’s has made the meaning of the term even more important. Having to account for all movements of a commercial motor vehicle (“CMV”), the time allocated to “personal conveyance” will be important to account for time that is not “on-duty” or “driving”.

For more than two decades, we have lived with a guidance rather than a definition. That guidance made personal conveyance hinge on whether or not the CMV was “laden”. A “laden” vehicle did not qualify for “personal conveyance.” Period.

If the CMV was “unladen”, the guidance then looked at the activity involved. “Personal conveyance” would be considered to include from home to the terminal and vis versa. It would also include a short distance to a restaurant or entertainment while en route. If, of course, the CMV was unladen.

As with the prior guidance, the recent proposed guidance still does not give us a definition. Instead, the FMCSA still takes the approach that it will “know it when it sees it”. “Personal conveyance”, that is.

The proposed guidance again relies on examples rather than definitions. However, it proposes a major change in that does not require the CMV to be “unladen.”

The reason for the removal of the “laden” exclusion is to make “personal conveyance” available to straight trucks and work vehicles from which loads and equipment cannot be removed. Whether “laden” or “unladen”, the proposed guidance then looks at

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the nature of the activity of the CMV in determining whether it constitutes “personal conveyance.”

The type of travel that qualifies is also framed by examples rather than established by definition. Those examples are travel as follows:

- from en route lodging to a restaurant or entertainment and back;
- from the last on-duty location to the driver’s permanent residence and back.

Conversely, the proposed guidance gives examples of what is NOT “personal conveyance”. Those examples are as follows:

- Movement that improves it work-related position, such as closer to a loading/unloading location;
- A towing unit that no longer meets the definition of a cmv after delivering the towed unit and is directed to return to pick up another unit;
- Continuing a trip in interstate commerce, even if unloaded, until the driver reaches their permanent residence, lodging, or terminal;
- Bobtailing or pulling an empty trailer to retrieve another load;
- Repositioning a cmv or trailer at the direction of the motor carrier.

Keep an eye out for the final version of the guidance. Review the examples of what it is and what it is not. And you, too, will “know it when you see it.” And I’m still talking about “personal conveyance.”