

Truck Dispatching for Fun and Profit

SATURDAY, JULY 24, 2010

Drugged-driving in the motor carrier industry

We have a pretty clear message in this country that you don't drink and drive.

But there's no similar message when it comes to drugs.

The federal government, however, wants to reduce drugged-driving accidents by 10 percent over the next five years. How that gets done in reality is not as easy to say.

How do you control your CMV drivers and keep them from getting behind the wheel when they have legally prescribed drugs that may impair their ability to drive, but yet your driver doesn't realize it, or he doesn't want to realize it and lose income?

You don't. Doctors prescribe all the time without strongly advising their patients against driving. In fact it's a cliché for TV announcers to say, "If you are taking XYZ, don't operate heavy machinery."

There is no reliable data on how many drivers are impaired by prescription drugs, but law enforcement officials say the problem is growing so quickly that states are putting hundreds of police officers through special training to spot signs of drug impairment.

The prevalence of drug-impaired driving is unknown, since many states combine the arrest data with that for drunken driving. The most recent study screened about 6,000 nighttime drivers (and some Friday afternoon drivers) and found that 16.3 percent tested positive for legal or illegal drugs. That's significant, but...

The tests could not determine which drivers were impaired.

I was recently involved as defense counsel in a case involving life-changing injuries to a pedestrian in which the involved CMV driver had a kit bag full of prescription and non-prescription drugs. Half of these are not tested in post-accident screens under FMCSA regs, but yet some quick research revealed the contra-indications and warnings on behaviour modification.

As to whether there was a connection to the cause of that particular accident, I will never know.

Very similar to "fatigue-related" crashes in which the sole evidence of fatigue being a cause of the accident is simply the driver's hours of service records, which really prove nothing, we have no scientific basis to rule in or out the potential effects of drugs on CMV drivers.

This is all very challenging to motor carriers and their safety programs. Perhaps greater vigilance in randoms and more frequent review of MVRs is necessary.

There are programs to help, however. Please feel free to contact me with thoughts or requests.

Posted by Jim Mahoney at 12:42 PM 0 comments  

Labels: [CMV accidents](#), [fatigue](#), [HOS](#), [impaired driving](#), [trucking](#)

FRIDAY, JULY 23, 2010

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Feds ask GAO to review states' actions on RRGs

According to Jerry Geisel in the July 23rd issue of Business Insurance, several members of the House of Representatives have asked the GAO to review regulation of risk retention groups by states in which the groups operate but are not licensed.

Risk retention groups, which are specialized multiple-owner captive insurance companies, can directly write all commercial casualty coverage—except workers compensation—for policyholder owners and are a wonderful means to save the unnecessary overhead charges of commercial insurers and brokers while maintaining necessary liability coverage for your trucking business.

Certain non-domiciliary states have continued to attempt to unlawfully regulate RRGs through tough filings, unwarranted fees and long waiting periods.

RRG's are already regulated under their state of domicile and are authorized by the federal government. The mode of insuring your trucking business via RRGs was first established more than 20 years ago under the federal Liability Risk Retention Act.

"The imposition of filing fees, filing requirements, information requests, waiting periods and other duties not authorized by the LRRRA are a continuing problem for the RRG industry," Robert Myers, general counsel for the National Risk Retention Assn. and a partner with Morris, Manning and Martin L.L.P. in Washington, said in a statement.

"The GAO study will be a great step toward quantifying the problem and hopefully providing the basis for needed congressional oversight," Mr. Myers added.

The Self Insurance Institute of America applauded the legislators' request for a GAO study to investigate state abuses of RRGs.

There currently are about 250 RRGs, which were first authorized under measures Congress passed in 1981 and then 1986. Read the article at www.businessinsurance.com

For more information about truckers, risk retention groups and captives and how they can maximize your operations, please contact me: jim.mahoney@astrigh.com or visit www.astrigh.com

Posted by Jim Mahoney at 1:33 PM 0 comments  

Labels: [commercial insurance alternatives](#), [RRG](#), [truck insurance](#), [trucking risk](#)

THURSDAY, JULY 22, 2010

owner operator misclassification strikes again

FedEx Ground will pay \$3 million to Massachusetts to settle claims that the company misclassified employee drivers as independent contractors. The allegations of misclassification was said to cause a decrease in payroll taxes, workers' compensation premiums and unemployment insurance tax.

FedEx Ground denied liability in the settlement. The company was cited for violations of the state's independent contractor law, which included failing to provide drivers with a proper pay stub and not paying overtime to certain drivers.

FedEx appealed the citations, but after the State proceeded with its investigation, it alleged further underpayments to the State's Revenue agency.

In May FedEx Ground issued new standards for its 12,000 owner-operators, including requiring independent contractors to be incorporated.

FedEx Ground is involved in 50 class action lawsuits, several individual lawsuits and about 40 state administrative proceedings, all of which involve an argument that the company's owner-operators should be classified as employees.

Posted by Jim Mahoney at 8:30 PM 0 comments  

Labels: [employee](#), [state tax](#), [misclassification](#), [owner operator](#), [trucking](#)

Truckers slogging through BP claims process

It appears that the BP DeepWater Horizon spill and resulting damage to the Gulf's economy has extended consequences to many industries and businesses beyond the Gulf that have yet to be fully developed.

The latest business loss appears to be in transportation, logistics and truckers, all of whom have lost revenue due to loss of loads, cancellation or reduction of orders normally relied upon, and the significant downturn in in Gulf States' economies.

BP allows any business that has suffered a loss due to the well blowout to submit claims using a variety of business records as proof. Many attorney firms have sprouted websites to solicit clients for lawsuits, but BP has a fairly streamlined do-it-yourself commercial claims form within its site at <http://www.bp.com/>.

Of course, BP's claims are being administered through ESIS, a contracted claims service that's part of the Ace Group of insurers, so the process is still a bit adversarial.

Posted by Jim Mahoney at 1:55 PM 0 comments  

Labels: [BP](#), [loss of revenue](#), [spill claims](#), [trucker](#)

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