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Cargo Securement - Shipper Accountability

The Federal Motor Carrier Safety Regulations, specifically §392.9, hold the driver accountable for ensuring that the cargo is properly distributed and adequately secured. Although flatbed carriers are more likely to get a load securement violation, violations have been issued to motor carriers who transport goods in van trailers.

There is a provision, §392.9(b)(4), which says that if the trailer has been sealed and the driver is instructed to not break the seal, then the driver is relieved of the cargo inspection responsibility. That would seem to settle the matter, but violations still occur.

Roadside inspection personnel may choose to break the seal and inspect the cargo for proper securement. If a violation is discovered, it is assessed against the motor carrier, even though the driver may have been instructed to not break the seal applied by the shipper.

The Commercial Vehicle Safety Alliance (CVSA) explains that under the regulations there's only one party to cite, and that's the motor carrier. They do not have the ability to pursue action against the shipper. In the interest of pursuing this matter, CVSA has sent a letter to FMCSA asking them to explore the possibility of allowing them to issue violations to the shipper in the case of a load sealed by the shipper.

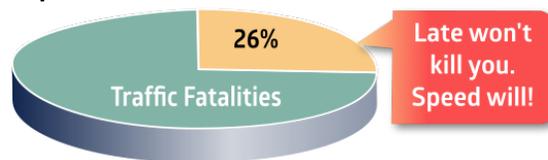
This action would be similar to that taken several years ago to allow citations against the owners of intermodal chassis for violations that could not reasonably have been found during a pre-trip inspection. This is a worthwhile discussion to have but we should not hope for quick action.

CVSA Targets All Drivers

This year's Operation Safe Driver event is scheduled for July 14th through the

20th. The emphasis is on speeding but law enforcement personnel will be tracking other dangerous driver behaviors such as distracted driving, texting, failure to use a seatbelt, following too closely, improper lane change, reckless or aggressive driving, failure to obey traffic control devices, evidence of drunk or drugged driving, etc.

Speed is a factor in 26% of traffic fatalities



The focus on speeding is a result of statistical evidence that shows speeding is a factor in 26% of highway fatalities. Also, according to [FMCSA's 2016 Large Truck and Bus Facts](#), speeding of any kind was the most frequent driver-related crash factor for drivers of commercial motor vehicles. The message behind the focus is: "Late won't kill you. Speed will."

During last year's Operation Safe Driver Week, 16,909 passenger vehicle drivers and 1,908 commercial motor vehicle drivers were issued citations for speeding. In addition, 17 commercial motor vehicle drivers and 714 passenger vehicle drivers were cited for driving too fast for the conditions.

A 2014 study, titled "Do Traffic Tickets Reduce Motor Vehicle Accidents? Evidence from a Natural Experiment," investigated whether traffic violation enforcement actually reduces the number of motor vehicle crashes. The study's author used one of the best-known enforcement programs, Click It or Ticket, which focuses on mandating seat belt use and ticketing violators. The study found that the Click It or Ticket campaign decreased motor vehicle crashes by roughly 11 percent and found that a 1 percent increase in citations issued led to a 0.28 percent decline in motor vehicle crashes. The ticketing campaign also reduced the number of non-fatal injuries from motor vehicle crashes.

"As unpopular as traffic citations are among drivers, we know that driver behavior does respond to contacts with law enforcement, warnings and citations," said CVSA President Chief Jay Thompson with the Arkansas Highway Police. "Roadway safety is our top priority and this traffic enforcement initiative supports our goal of making sure everyone driving on our roadways is doing so safely."

Younger Drivers - Expanded Pilot Program

Last year FMCSA announced a pilot program that would allow certain 18 to 20 year olds with military training to operate in interstate commerce. Now FMCSA is seeking comments on a second pilot program that would allow drivers in the same age group without military experience the same opportunity to drive in interstate commerce.

Proponents of the pilot programs say they address the shortage of drivers and will result in earlier entry into the trucking industry which would enhance recruiting drivers before they take other career paths. Opponents feel that drivers that young are not mature enough to handle the responsibility of a large commercial motor vehicle. However, younger drivers operate in intrastate

commerce and none of the states have offered evidence that they are statistically less safe.

On February 27, 2019, companion bills were introduced in the U.S. House of Representatives and the U.S. Senate called the "Developing Responsible Individuals for a Vibrant Economy Act" (DRIVE-Safe Act) (H.R. 5358). The DRIVE-Safe Act proposes to lower the age requirement for interstate drivers to 18 as long as drivers under the age of 21 are participating in an apprenticeship program that includes separate 120-hour and 280-hour probationary periods, during which younger drivers would operate CMVs under the supervision of an experienced driver and must achieve specific performance benchmarks before advancing. Younger drivers would also drive vehicles equipped with active braking collision mitigation systems, forward-facing video event capture, and speed limiters set to 65 miles per hour.

This should prove to be an interesting discussion and, hopefully, the two pilot programs will yield some useful data that can guide a final decision.

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