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## SAFETY BULLETIN



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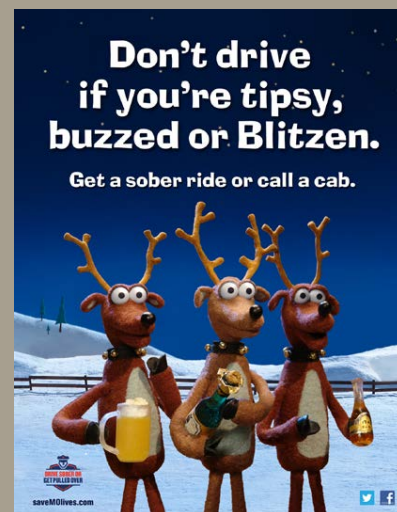
## Proactive vs. Reactive Safety and Loss Control Program

### Which One Do You Have?

*At the end of the year you should be evaluating your safety and loss control program to determine your performance over the year. Where do you stand compared to last year and the year before?*

Ongoing analysis programs are vital to a proactive and productive safety and loss control program. It always amazes me that companies cannot tell me what their accident frequency rate is and how it compares to years past.

Accident frequency should be determined throughout the year no less than quarterly to determine trends and be proactive in controlling losses. Accident frequency rates



### Alcohol, Drivers and the Holidays!

Now is a good time to remind your drivers of the consequences of drinking during the Holiday season and what effect their actions can have on their CDL or operator's license and ultimately their employment with your

can be calculated by multiplying the total number of accidents for a period of time by one million and then dividing by the total number miles for the same period. Accident frequency rate can be determined for DOT recordable, preventable recordable, non-preventable, by region, by fleet, driver supervisor, injury, etc.

However, accident frequency rates are just one piece of the overall safety analysis program that is in place to provide you with a sense of direction of where your program is going.

Other areas of your internal analysis program should include, driver turnover frequency, DOT violation analysis (Hours of Service, Drug and Alcohol, driver file), OSHA violations, workers compensation injuries, etc.

Another analysis tool that you should review monthly is the Federal Motor Carrier Compliance, Safety and Accountability (CSA) program provided to you by the FMCSA at <http://www2.idealease.com/e/36492/sms-/57pd19/544391418>

### **A sound Proactive safety and Loss control program will adequately address the following areas:**

- Driver Selection
  - Driver recruiting
  - Carrier-based training
  - Management-driver communications
  - Driver safety-performance evaluation
  - Safety incentives, Behavior-based safety
  - On-board safety monitoring
  - Telematic event-data recording
  - Accident investigation
  - Improved driver scheduling and dispatching
  - Fatigue management
  - Carrier-based medical programs
  - Preventive maintenance and vehicle inspection
  - Advanced safety technologies, Industry-based safety standards and certification
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company. Advise your drivers to use caution when indulging in alcoholic beverages and have a designated driver to not only protect their license and job but the motoring public.

The FMCSA regulations are specific that a CDL driver while operating any type of motor vehicle is convicted of being under the influence of alcohol as described by state law will be disqualified from operating a commercial motor vehicle for one year. A second conviction would disqualify the driver from operating a commercial motor vehicle for life.

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### **When is Alcohol Use Prohibited?**

Alcohol is a legal substance; therefore, the rules define specific prohibited alcohol-related conduct. Performance of safety-sensitive functions is prohibited:

While using alcohol.  
While having a breath alcohol concentration of 0.04 percent or greater as indicated by an alcohol breath test.  
Within four hours after using alcohol.

In addition, refusing to submit to an alcohol test or using alcohol within eight hours after an accident or until tested (for drivers required to be tested) are prohibited



# F M C S A

*Federal Motor Carrier Safety Administration*

## **Are you aware of the Short Haul Provisions in the FMCSA Hours of Service regulation in CFR 395?**

If you operate a commercial vehicle that does not require a CDL license your drivers can utilize a provision to the regulations to allow them to keep time records in lieu of a grid log. This applies to drivers who operate within a 150 mile air radius (172 ground or statute miles) of the terminal location and meets the requirements of the regulations below. Drivers of units that require a CDL also can take advantage of a 100 air mile radius (115 ground or statute miles) provision that allows them to keep time records in lieu of a grid log.

### **So what is the advantage of using the short haul provisions?**

To the driver it allows them to complete the day's work without keeping a log book current to the last change of duty status. For a driver that has numerous pickups and drops this can be tedious and subjects the driver to log book violations if supporting documentation such as delivery receipts, fuel receipts and other supporting documentation does not match the log.

The company benefits by not being subject to false log violations during a compliance review audit as long as the supporting documentation generated by the driver falls in between the time the driver starts their tour of duty and the end there is no false log violation.

In the new proposed Electronic Logging Device (ELD) regulation that should become final next year there is an exemption for Short Haul operations. This would mean that drivers exempt from log books (100-mile or 150-mile radius, 12 hour drivers) are exempt from ELD rule. Exempt drivers may use paper logs when they exceed limits of exemption, as long as they do not exceed the limits more than 8 times in any rolling 30-day period. Exempt drivers must still maintain supporting documents for on-duty, not driving periods

### **Short-Haul Provision for **NON-CDL** CMV Drivers**

Drivers of property-carrying commercial motor vehicles that do not require a CDL for operation and operate within a 150 air-mile radius of their normal work reporting location:

- Maximum of 11 hours driving, minimum 10 hours off-duty, 14 consecutive hour duty period, 60/70 hours in 7/8 days, 34-hour restart all apply.
- On any 2 days of every 7 consecutive days, the driver may extend the 14-hour duty period to 16 hours.

There is no requirement that the driver be released from duty at the end of the 14- or 16-hour duty periods. The driver may continue to perform non-driving duties, which would be counted against the 60/70 hour weekly limitation.

Time records may be used in lieu of records of duty status

Drivers who use this short-haul provision are not eligible to use 100 air-mile provision 395.1(e) or the current 16-hour exception in 395.1 (o).

### **Short-Haul Provision for **CDL** Required CMV Drivers**

Drivers of property-carrying commercial motor vehicles that require a CDL for operation and operate within a 100 air-mile radius of their normal work reporting location:

- The driver operates within a 100 air-mile (115 statute/ground miles) radius of the normal work reporting location
  - The driver returns to the work reporting location and be released from duty within 12 consecutive hours
  - The driver maintains time records as specified in the rule
  - The driver is not covered by the "non-CDL 150 air-mile radius" provision
  - For both of these provisions the driver/carrier must maintain and retain for a period of 6 months accurate and true time records showing:
    - The time the driver reports for duty each day
    - The total number of hours the driver is on duty each day
    - The time the driver is released from duty each day
    - The total time for the preceding 7 days in accordance with 395.8(j)(2) for drivers used for the first time or intermittently
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## Federal Judge enjoins changes to Overtime Exemptions

No. 4:16-CV-00731, U.S. District Court for the Eastern District of Texas, decided November 22, 2016. [, \*State of Nevada v. U.S. Department of Labor\*](#)

A federal court judge in Texas has issued a nationwide preliminary injunction against the new salary threshold for exemption from overtime requirements for Executive, Administrative and Professional Employees that were scheduled to go into effect on December 1, 2016.

Twenty-one States had filed suit in federal court against the U.S. Department of Labor's new overtime rules. In addition, a separate lawsuit challenging the overtime rules was filed in the same court by a coalition of 50 local and national business groups, including the U.S. Chamber of Commerce, National Association of Manufacturers, National Association of Wholesaler-Distributors, National Retail Federation, and the National Federal of Independent Businesses.

The new rules would have raised the salary threshold for Executive, Administrative and Professional employees to be exempt from overtime requirements, which require employers to pay at least one and one-half times the regular pay rate for each hour an employee works beyond 40 hours per week. The DOL final rule had raised the exemption threshold from \$455 per week to \$913 per week, or \$47,476 annually. The final rule did not affect the overtime exemption for commercial motor vehicle drivers subject to the DOT driver hours of service requirements, however.

***The ruling keeps in place the current overtime requirements, and employers do NOT have to comply with the changes to the salary threshold for Executive, Administrative and Professional employees that were scheduled to become effective on December 1, 2016.***

This ruling is not a final decision on the merits of the case. It merely preserves the *status quo* while the court considers the merits. But given that the opinion states that the plaintiffs are likely to succeed on the merits, the court has clearly signaled how it

will ultimately rule. The decision also noted that because the final rule is likely to be held unlawful, the automatic mechanism to update the salary threshold every three years is also likely to be struck down.

The Department of Labor is considering its legal options in response to the court decision. But a new Secretary of Labor in the incoming Trump Administration is not expected to support these salary-level changes to the overtime exemption rule.

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## Maintaining Your Health This Winter

Winter has officially begun, and with the falling temperatures comes an increased risk of catching a cold. While colds are generally a non-fatal annoyance, they can nevertheless disrupt your productivity and spoil your schedule due to the fact that they typically last for up to seven days. In order to keep your immune system healthy and capable of fending off colds this winter, follow these five pieces of advice:

- **Exercise regularly:** Being physically active for just 20 minutes, five days a week can provide a boost to your immune system—effectively cutting your risk of catching a cold in half. Additionally, if you do catch a cold, your symptoms are likely to be less severe and will clear up sooner.
- **Practice good hygiene:** Wash your hands with soap and hot water for at least 10 seconds. Even after washing, avoid touching your eyes, nose and mouth to prevent any cold viruses from entering your body.
- **Get plenty of sleep:** By getting at least seven hours of sleep each night, you have less than a 1 in 5 chance of catching a cold.
- **Eat well:** Add plenty of fresh fruits and vegetables as well as whole grains to your diet. These types of foods will provide your immune system with a beneficial variety of vitamins, minerals and other nutrients. Additionally, drink between six and eight glasses of water each day to stay properly hydrated.
- **Be proactive:** If you start to feel ill, take a zinc supplement, as the mineral binds itself to the cold virus. This makes it difficult for the virus to replicate and helps to expedite the recovery process. Additionally, you can use a nasal decongestant spray to reduce inflammation of your sinuses and slow down the production of mucus.

If, despite following these pieces of advice, you still fall ill this winter, be sure to stay home, rest and drink plenty of fluids. However, if your cold lingers for more than two weeks or your symptoms suddenly get worse, visit your doctor right away.

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