



TRANSPORT CENTER UPDATE

October 2011

Vol. 3, Issue 8



PSP-WHAT'S TO DEBATE

At a trucking law conference this summer, a panel debated whether a company should run a PSP on prospective hires. Some raised the question of the potential impact in a lawsuit if you got a bad PSP report on a driver.

I had one question-what's there to debate. A PSP must be obtained. The information cannot be ignored. There are several reasons.

"For \$10, you would have known of the history of the driver to whom you entrusted your truck." That's the question you will be asked at trial if you don't run a PSP and find out what is there to be found.

Ignorance is neither a defense nor a choice. Not getting the information only adds another potential claim against you for your failure to do so.

If the PSP presents a problematic history you have two choices. First, if there are isolated areas or non-serious violations, consider addressing the problems as part of your hiring process.

Provide pre-employment training in the specific area(s) in which the violations appear. Vigillo reports that most CSA points arise from speed, visible vehicle defects, and log violations that are frequently form and function. These are potentially curable habits.

Increase supervision to reform the conduct. Provide a period of probation to demonstrate

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

M&K Upcoming Events:

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

compliance with the required conduct. Perhaps all of the above.

Document what you did, why you did it, and what results you produced to justify employing the driver in light of his PSP record. Be able to produce your training plan for the driver and the results you achieved.

Recognizing and addressing the problem is defensible. Ignoring the problem is just that...a problem.

Additionally, the PSP gives you other information that is important in the hiring process. You may see other employers that the driver failed to list on his application. Without the PSP, you may not learn of these employers until after the accident occurs.

In signing on owner-operators, you are provided insight into their equipment and its maintenance. Again, it is better to know before you sign them on rather than when you are on the phone with a shipper or broker while the unit is incapacitated by mechanical failure or an out-of-service violation.

Not get a PSP? Not an option.

Before You Just Pay an Overweight Citation There Are A Couple of Things You Should Know

Your driver just received an overweight citation. There are a couple of things you should think about.

First, find out from your driver how the vehicle was weighed. I recently handled a case where the officer who weighed the vehicle improperly included the weight of a tree chipper that was attached to the truck. An attorney can provide assistance with determining whether or not the

Upcoming Events in the Industry:

Nov. 1st - DOT Compliance Seminar hosted by PMTA, 9am-4pm, Camp Hill, PA. For more info click [here](#).

Nov. 2nd & 3rd - Two Day OSHA General Outreach hosted by PMTA. 9am-3pm on both days, Camp Hill, PA. For more info click [here](#).

Nov. 15th - HAZMAT Seminar hosted by PMTA. 9am-4pm, Camp Hill, Pa. For more info click [here](#).

Nov. 29th - North American Cargo Securement Harmonization Public Forum, Montreal, QC Canada. For more info click [here](#).

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

vehicle was weighed in accordance with the requirements in the vehicle code.

Second, determine which section of the vehicle code your driver was cited under. Different vehicle code sections will have different elements to prove. Also, a violation under certain vehicle code sections will automatically double the fine.

Third, make sure that the fine amount was calculated correctly. Several of the overweight citations I have handled included a fine that was not properly calculated, including instances when a fine was improperly doubled. 75 Pa.C.S.A. §4945 provides the formula for calculating the fine of an overweight citation.

Fourth, if you are going to take a hearing, consider retaining an attorney to handle the hearing. At a hearing, an attorney can ensure that if the officer does not prove all of the necessary facts for its case judgment will be entered for the defendant.

Check out a more in depth version of this article in an upcoming PennTrux issue.

Are You Ready For Winter?

Here are some quick links to help you prepare for winter this year.

- Check out ATRI's Compendium of Idling Regulations by clicking [here](#).

- Check out the Summary of ATRI's Snow and Ice Removal Study by clicking [here](#).

- Review winter weather driving tips at your next driver's meeting.

Keep Up Online

Keep up with the latest news and information online. Follow our blog, Twitter, LinkedIn, and Facebook pages to keep up to date with the latest

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](#)

[National Traffic and Road Closure Information](#)

For more resources click [here](#)

STAY CONNECTED:

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



[Transportation Legal News Blog](#)

news and industry insight.

Blogs posts on Tuesday, Thursday, and Sunday will address topics from Federal regulations to defending against suits. To go to our blog click [here](#). Twitter will provide immediate information on new developments in the industry. To visit our Twitter page click [here](#). LinkedIn provides discussions and exchanges of information among transportation professionals. Check out our LinkedIn page [here](#). Facebook provides updates on trucking activities and events. Friend us on Facebook by clicking [here](#).

Stay in touch and keep up with the latest information. Follow us online.

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.

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.

QUOTE OF THE MONTH

"Not what we say about our blessings, but how we use them, is the true measure of our thanksgiving."

~ W.T. Purkiser

LET US KNOW WHAT YOU THINK

We want to focus our articles on the issues and concerns of our subscribers. If you have suggestions for our newsletter please do not hesitate to contact us.



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

