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New ICSA Group Insurance Program Now Up and Running



ICSA's new truck insurance group program offered through our partnership with One80 Intermediaries is ready to go. You can currently get assigned a specialist to assist you in obtaining quotes by sending an email to ICSAGetaQuote@INTLXS.com. Next week, you will be able to get a quote directly through a link on ICSA's website, safecarriers.org. What this means is that membership in ICSA now gives you access to literally dozens of truck insurance providers to ensure you get the best premium for your business.

Just placed your insurance somewhere else? Have a policy that doesn't expire for months? You can still get a quote from One80's vast network of insurance providers. One80's expertise will help ICSA members navigate the complexities of insurance and risk management. "We couldn't be prouder to partner with One80," said ICSA's Executive Director Karen Rasmusen. "And don't forget that ICSA also offers a robust menu of money-saving services ranging from fuel discounts to health and benefits offerings."

To get a quote, email ICSAGetaQuote@INTLXS.com.

RoadCheck 2024 Will Focus on Three Elements *Tractor Protection Systems, Drug & Alcohol and CDLs*

RoadCheck 2024 is set for May 14-16. Now is the perfect time to be sure your trucks and drivers are ready for this annual commercial vehicle enforcement blitz. This year's focus is on tractor protection systems and alcohol and controlled substance use or possession. Inspectors will also check the expiration date, class, endorsements, restrictions, and status of the drivers' CDL. They will also review medical examiner's certificate and driver logs. Inspections will occur at weigh/inspection stations, temporary sites such as rest areas and during mobile patrols.

During RoadCheck 2023, nearly 60,000 commercial vehicles were inspected in the U.S., Canada, and Mexico during the three-day inspection blitz, resulting in 116,669 total driver or vehicle violations – an average of nearly two violations for every commercial vehicle and driver inspected. The Commercial Vehicle Safety Alliance has provided an inspection bulletin (<https://www.cvsa.org/wp-content/uploads/Inspection-Bulletin-2010-01-Tractor-Protection-Systems.pdf>) outlining steps on how to check tractor protection systems.

With its focus on tractor protection systems, enforcement officials want to increase awareness for drivers, motor carriers, technicians, and other truck enforcement personnel of these critically important vehicle components - specifically, the tractor protection valve, trailer supply valve and anti-bleed back valve – components often overlooked during pre-trip and roadside inspections.



COACHING CORNER

Curbing Distracted Driving

By Mike Hitchcock, Award Winning Truck Safety Professional and ICSA Board Member



(Excerpted from January 2024 Landing Gear)

In reviewing hundreds of videos every day, ICSA is seeing an increase in distracted/inattentive driving. In many, they hear the driver talking on the phone, having a radio blaring, combined with going too fast for conditions. These distractions keep drivers from processing data fast enough to react to sudden changes.

Despite all the safety features and equipment in newer trucks, crashes and fatalities continue to rise. From 2009 to 2019, truck crash fatalities rose by 48%. As an industry, we must do better. ICSA is here to help you improve highway safety and reduce the chances of being in a serious crash.

How do we do this? First, we respect professional drivers and acknowledge their skills. Second, we give tips to create an open communication relationship with them that incorporates mutual trust and respect. Every experienced driver will tell you that once they learn the skills of operating their equipment, the next challenge is avoiding complacency. How can we help them?

Imagine you receive a video of your driver running a stop sign. You think to yourself “Well a crash hasn’t happened. No need to worry about it.” Is that the professional way to handle the safety violation or are we being complacent? Following up on events showing inattention is critical and is a real solution to reducing crashes. We have to identify and understand the cause before we can find a solution. We must view it as much more serious than just running a stop sign. It is actually a crash that didn’t happen and a serious miscue by an otherwise professional driver. Identify the “why” and help the driver understand what to do next time.

- Discuss what really happened.
- Work to identify the cause. Particularly if similar behavior has happened on multiple occasions. Dig down to the root cause.
- Identify the expectation and a solution. What is the smart thing to do next time this situation arises?
- Commit to using this knowledge to eliminate a re-occurrence in the future.

If you can’t convince yourself that the risk is eliminated, don’t settle. Reach out and consult with ICSA safety consultants. We are always available to help you. One of the most important things you can do is to

implement ICSA’s model distracted driving policy. You may also reach out to ICSA, whose team is well-trained in ways to help you coach your drivers into better safety behavior. We love talking to members about strategies that help drivers improve while maintaining respect and professionalism.



Freight Volumes, Spot Market Remain Flat through March

In what is probably no news to ICSA members, American Trucking Associations (ATA) reported this week that truck tonnage hit a record 13 consecutive months of year-over-year declines after a slight decrease in March, indicating that the truck freight recession continued through the first quarter of 2024. At the same time, numerous trucking economists say that spot market rates barely budged in March.

The ATA For-Hire Truck Tonnage Index dipped 1% year-over-year to 113.4, the second smallest during the 13-month stretch.

“In the first three months of 2024, ATA’s tonnage index contracted 0.8% from the previous quarter and declined 2.4% from a year earlier, highlighting ongoing challenges the industry is navigating,” said ATA Chief Economist Bob Costello in a news release.

The February result was reduced slightly from ATA’s initial reading for the month from March 19. On a year-over-year basis, the February number marked a 3.3% improvement from a year-ago reading of 54.7. The ATA index is dominated by contract freight rather than spot market freight. In calculating the index, 100 represents the year 2015.



FMCSA Seeks White House Approval for New Online Registration System

Maybe Bye-Bye to MCS-150, BOC-3 and Other Forms

The Federal Motor Carrier Safety Administration is requesting approval from the White House Office of Management and Budget (OMB) for a new information collection request (ICR) titled "FMCSA Registration System (FRS)." In an April 19 Federal Register posting, FMCSA said it will replace its Unified Registration System (URS) with a new online registration system, to be named the FMCSA Registration System. FMCSA said the new system is part of an effort to clean up the bad actors in the industry, which the agency now fully admits are in the system today.

The new system will allow anyone required to register under the agency's commercial or safety jurisdiction to do so online, including:

- New entrants applying for safety and/or operating authority registration for the first time
- Existing registrants that already have a USDOT number and/or operating authority wishing to apply for additional authorities
- Mexico-domiciled carriers that wish to operate beyond the U.S.-Mexico border commercial zones
- Registrants updating their records to reflect name and address changes as well as reinstatements of operating authority for motor carriers, freight forwarders, and brokers
- Registrants that request a voluntarily suspension of their safety and/or operating authority registration with FMCSA

It will also apply to designated agents and those entities providing proof of financial responsibility requirements, such as insurance companies and broker bond agents, FMCSA noted. According to FMCSA, the new FRS will eliminate a number of forms currently used by motor carriers and others in the transportation industry, including the MCS-150, BOC-3, OP-1 and more, integrating them all into a new online system.

The agency will accept comments on the proposed information collection through June 18. FMCSA will host a webinar on May 29 to review what it terms "a more user-friendly registration system that manages the registration life cycle of regulated entities." ICSA will post registration information for the May 29 event when it is available.

Insurance Study Shows Distracted Driving Getting Worse

According to a study from Travelers Insurance,

distracted driving is on the rise again, after declining during the pandemic. To get more detail on the problem, Travelers commissioned a research firm to conduct two surveys in January. The first was a national online survey of 1,000 consumers between 18 and 69 years of age, asking about their perceptions and behaviors related to distracted driving. The second was a questionnaire tracking responses from 1,050 executives from businesses of all sizes, including trucking. The resulting "2024 Travelers Risk Index" (<https://investor.travelers.com/newsroom/press-releases/news-details/2024/Travelers-Risk-Index-Shows-Rise-in-Distracted-Driving/default.aspx>) showed that distracted driving behaviors are on the rise since before the pandemic.

If you haven't downloaded and implemented ICSA's model Distracted Driving Policy, now is the time. Find it here: <https://www.safecarriers.org/media/g0yhkwec/sample-distracted-driving-policy-final.pdf>.

Driving while distracted was a key factor in near misses, which increased 30% in 2021 and 40% in 2022. The study cited National Highway Traffic Safety Administration (NHTSA) data showing that U.S. traffic deaths jumped by 10.5% in 2021, after decades of steady declines. Total U.S. traffic fatalities for that year totaled 42,915 and reached their highest level since 2005. Major distracted driving factors include:

- Updating or checking social media: +13%.
- Typing a text or email: +10%.
- Talking on a cellphone even though hands-free: +10%.
- Using a cellphone to record videos/take photos: +9%.
- Reading a text or email: +9%.

Of the executives surveyed, 85% said they are concerned about their employees' use of mobile technology while driving; 68% of executives surveyed said they have implemented distracted driving policies, including workplace rules such as:

- Formally communicating about restrictions concerning phone calls, texts and/or emails while driving for work (84%)
- Requiring employees to sign an acknowledgment of the policy (66%)
- Disciplining employees who do not comply with company policy (77%)
- Prohibiting the use of handheld devices while driving (53%).

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3. Military force can achieve the desired result
4. Use decisive, overwhelming force with the intent of winning
5. Do not commit forces without popular support
6. Consequences have been thought out

In short, do not commit our bravest citizens without the commitment and resources to accomplish the objective.

"Powell Doctrine" to Trucking Defense

While not comparing the commitment of or risk to our military, we should learn the lessons and apply the doctrine to the defense of suits brought by the billboard attorneys.

The American Transportation Research Institute's Nuclear Verdict report points to many of the same elements as factors that determine the nuclear potential of verdicts.

Clearly defined objectives: What is the objective of this litigation? Is there an evaluation of the exposure and risk? Is there an agreement among all the players – company, insurer, and attorney? This objective needs to be addressed from the beginning of the case. Actually, from the instance of the accident. All parties should then move together towards that objective.

Litigation as a last resort: Lawsuits present risks and generate expense. Avoiding a suit is generally in the interest of all. However, this does not mean capitulating to demands or throwing money at the case. Avoiding litigation can be achieved by the development of strength. Strength of case by:

1. Developing a complete and effective safety program BEFORE the accident
2. Immediately and thoroughly responding to the accident to maximize discovery and development of evidence
3. Act aggressively post-accident – push back to letters of rep with demands for releases and independent medical examinations, surveillance, even sue them first

Don't be afraid to flex your muscle. If you have video that exonerates, share it with the billboard lawyer early. These folks who are driven by money are dissuaded from investing time and money in a case with little or no return on investment.

Aggressive response and action can avoid litigation. Consider this and other alternatives.

Litigation can achieve the desired result: Is the objective of the case obtainable by litigation? Will the cost, time, and effort of a lawsuit reach the objective defined at the beginning and agreed to by the company, insurer, and attorney? If not? Institute early and immediate efforts to settle. Get the car repaired and be there with a check. Pay for the funeral and initiate engagement. Mediate pre-suit. If the objective is realistically achievable without suit, why? Focus your efforts to settle. Settle before their expectations are inflamed and damages inflated by a billboard attorney.

Use decisive, overwhelming force with the intent of winning: In the words of Meek Mill, "Scared money don't make no money." Be in it to win it. Don't scrimp on costs disproportionate to the risk. And in today's world of thermonuclear verdicts, you cannot be nonchalant on any claim.

The cost of surveillance is minimal compared with its persuasive impact in today's "YouTube" society. Same with thorough investigations uncovering witnesses and videos. ATRI identified the failure by trucking defendants to engage experts as a major element in nuclear verdicts. The billboard lawyers aren't pulling punches. Neither can we.

Witness preparation and focus group experts are similarly invaluable. Failing to do so can destroy a defensible case. Failing to do so is kinda like taking a knife to a gunfight. Except, you don't even have a knife. Not all cases require you to go "full Navarone." However, you cannot afford to be out-resourced in these cases.

Don't commit without popular support: Support by all three players – company, insurer, and attorney. Same page. Same commitment. The trucking companies are key players in today's reality of deductibles and retention to slow-growing premiums. They have considerable skin in the game. They are crucial for commitment and ongoing communication.

Consequences have been thought out: Settlement v. verdict. What is the potential exposure to the insurer and, in today's climate of potential excess verdicts, to the trucking company.

Bottom Line

Every claim is potentially explosive requiring thorough analysis and full commitment to defend. Start with analysis akin the Powell Doctrine and then follow the commitment you have made.