

U.S. Transportation Industry Update



New Driver Coercion Rule

As part of an ongoing series, this report provides a brief overview of updates within the U.S. Transportation Industry. Quotes are included from established industry analysts and researchers to ensure comprehensive coverage of current and expected conditions.

On January 29, 2016, the Federal Motor Carrier Safety Administration's (FMCSA) new Driver Coercion Rule takes effect. The rule was created to improve safety by removing the threat of pressure on drivers to continue to operate equipment when it would be illegal and/or unsafe to do so. The FMCSA specifically defines coercion to have occurred when "motor carriers, shippers, receivers, or transportation intermediaries operate commercial motor vehicles (CMVs) in violation of certain provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), Hazardous Materials Regulations (HMRs) and the Federal Motor Carrier Commercial Regulations (FMCCRs)."

Penalties for driver coercion are fines of up to \$16,000 per occurrence. All of the fines collected are deposited into the Highway Trust Fund. The driver does not directly benefit financially from a valid coercion claim. In addition to fines directly from the violation, any carrier committing coercion could conceivably lose their operating authority under a separate rule (49 U.S.C. 13905) for engaging in "willful non-compliance with an agency regulation."

Driver Coercion Rule Highlights

An actual violation of one of these regulations does not have to occur in order for a charge of driver coercion to be found valid. Below is the three step litmus test listed by FMCSA to determine if a charge of coercion is warranted:

- "A motor carrier, shipper, receiver, or transportation intermediary request a driver to perform a task that would result in the driver violating certain provisions of the FMCSRs, HMRs, or the FMCCRs;

- The driver informs the motor carrier, shipper, receiver, or transportation intermediary of the violation that would occur if the task is performed, such as driving over the hours of service limits or creating unsafe driving conditions; and
- The motor carrier shipper, receiver, or transportation intermediary make a threat or take action against the driver’s employment or work opportunities to get the driver to take the load despite the regulatory violation that would occur.”

Other Findings

- If drivers feel a violation has occurred, they have a 90-day window in which to submit a complaint.
- It is acceptable for a shipper to refuse to use a carrier that cannot dispatch a driver with sufficient hours to deliver the freight as scheduled.
- It is the responsibility of the motor carrier to dispatch a driver with proper hours and equipment.
- A broker or third party should always communicate with the motor carrier and allow them to communicate with the driver, as communicating directly with the driver would put the broker or third party at risk of being found liable for coercion.

Armada’s Driver Coercion Compliance Plan

Armada abides by all federal, state and local regulatory laws in support of the safe transportation of goods and the safety of our carriers’ drivers. Armada’s Transportation Operations team has been trained in the requirements of the new FMCSA Driver Coercion Rule with a particular focus on how to properly communicate with carriers in support of driver safety. Routine driver coercion training will be conducted for new supply chain team members going forward.

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Source:

FMCSA - www.fmcsa.dot.gov