

The Communicator

T H E C A L I F O R N I A M O V I N G & S T O R A G E A S S O C I A T I O N

CSA Training Could Affect O-Os, Some Industry Officials Worry

By: Sean McNally, *Transport Topics*

Some trucking executives said they are concerned that providing additional training to their drivers to meet the federal government's new safety program may put their independent contractor status at risk.

Even though federal regulators told TRANSPORT TOPICS that additional training for the Federal Motor Carrier Safety Administration's safety monitoring system—CSA 2010—was unlikely to cause fleets to run afoul of labor laws, industry representatives said they remained concerned.

There is a line when "you're starting to provide [drivers] a set of core skills that really starts to look like you're an employer and they are an employee," and carriers may find themselves crossing that line with CSA 2010, said Greg Feary, managing partner at the law firm of Scopelitis, Garvin, Light, Hanson & Feary.

One of CSA 2010's seven violation categories is driver fitness, and within that category there are numerous violations that count against the fleet based on a driver's training, or lack thereof.

"As soon as you start training an independent contractor driver . . . on the system that's going to be used to measure them, I think you have the potential to cross the line to training them on core skills that as independent professionals they should bring to the job," Feary said.

Richard Reiser, executive vice president and general counsel of Werner Enterprises Inc., said the tension between safety training and contractor status was "not a new concern."

"Are they still independent if they are trained

too much . . .? You run the risk that they won't be," Reiser said. "We've always been responsible for our owner-operators from a safety standpoint, but you're caught in the middle on that training because of the internal revenue code."

Reiser said there should be "some kind of safe harbor provision" that allows fleets to provide safety training to their owner-operators without jeopardizing the contractor status of those drivers.

Meanwhile, Kevin Burch, president of Jet Express Inc., said that he's been dealing with the intricacies of contractor status for nearly 20 years, and the Dayton, Ohio, carrier was setting those concerns aside to educate all of its drivers.

"As soon as we knew this [CSA 2010] was coming down, we notified everyone – company drivers or owner-operators – about the program," he said.

"Safety is safety," Burch continued, adding that he "would challenge anyone to say that for me to help assist an owner-operator in understanding what it takes to be safe or to comply under CSA 2010" violates their contractor status.

"This isn't loads and pay or benefits and health care and all that, I'm way above that. I'm thinking about safety and the change in the process from SafeStat to CSA 2010," he said.

Burch said Jet is conducting a program that has identified the fleet's 20 lowest-scoring drivers, regardless of classification, under the CSA monitoring system and company officials are "going to sit down and educate them and we're going to track them" through the end of the

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Chairman's Corner

By: Brian Larson

Social media is being talked about a lot these days. Everyone seems to be connecting with their friends and family on Facebook or MySpace, "tweeting" on Twitter, blogging and expanding their professional network on LinkedIn. If your organization is still pondering the idea of social media and whether it would be of value to your business, I urge you to look into how you may benefit from the social media craze.

Social media is a very broad term and encompasses a large range of different Web sites. The common link between all of these different Web sites is the ability for you to interact with the Web site itself as well as the other visitors on the Web site.

Facebook, MySpace, Twitter and LinkedIn all offer free accounts. Some do offer paid accounts as well that will give you access to more features for those advanced users, but for the purpose of getting started, they are free.

One of the goals in marketing is to always be



in front of your customers and potential customers. Social media allows you to extend your marketing reach on the Web into other interactive areas where your customers may be gathering or networking. Setting up a profile on these sites can help boost awareness of your business and the services it has to offer. Certain content of your profiles and activities can be made "public." This means that they can actually be indexed by the search engines, helping to drive more customers to your Web site.

Social media is accessible everywhere. From your desktop, laptop, Smartphone or Windows Mobile device, there are applications that allow you to update your social networking sites anywhere you may be at any time, day or night.

Social media services are fairly easy to use for the most part and do not require a lot of technical or Web knowledge for you to get started. Within your organization, you need to identify your reason for getting started, and then set some goals for your success. Start small, pick one site and start there. Once you are comfortable with that site you can build and expand to other sites. Stay involved with your profile and

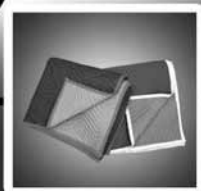
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President's Comments

By: Steve Weitekamp



Over the last several weeks CMSA has sent out emails on Proposition 23 and the recent CARB workshops. These emails have generated more than a few calls and raised at least one question that others may be thinking.

The notice that Proposition 23, "the California Jobs Initiative," an initiative to suspend AB32 had received the required number of signatures and will therefore be on the California ballot in the upcoming November election. This caused some to wonder if passage would stop the On-road Diesel Truck regulation. To provide a little background; In 2006, the Legislature passed and Governor Schwarzenegger signed AB 32, the Global Warming Solutions Act of 2006, which set the 2020 greenhouse gas emissions reduction goal into law. It directed the California Air Resources Board to begin developing discrete early actions to reduce greenhouse gases while also preparing a scoping plan to identify how best to reach the 2020 limit. The reduction measures to meet the 2020 target are to be adopted by the start of 2011.

Question: If Proposition 23 to delay the provisions of AB32 until California's unemployment rate drops to 5.5 percent or less for four consecutive quarters passes will this have the effect of delaying implementation of CARB?

Answer: The suspension of AB32 will have no direct impact of the On-road Diesel Truck Regulation but should delay the Trailer Rule that is based on AB32. The Trailer Rule is specific to 53' box type trailers and the tractors that pull them and includes requirements for modifying equipment to include low resistance tires and wind diverting skirting.

Several commented on the provocative and biased language used in the ballot description of Proposition 23. Language used includes the statement, "Major Polluters ...that Cause Global Warming." Attorney General Jerry

(President's Comments continued on page 5)



Bill Greek
April 10, 1933 — June 25, 2010

Longtime and cherished CMSA member, Bill Greek, owner and founder of Rebel Van Lines since 1971, passed away on Friday, June 25, 2010. Bill Greek was an innovator in the industry. He touched many people's lives over the years and will be deeply missed.

Bill is survived by his wife Carol, two daughters Maureen and Debbie, and three grandchildren. Bill was not only a good friend to many, he was also like a second father to all of his employees at Rebel.


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(CSA Training continued from page 1)

year.

Candice Tolliver, an FMCSA spokeswoman, told TT that all carriers should make sure their drivers – company or contractor – are fully knowledgeable about CSA 2010 and the agency's other safety rules.

"A carrier's [safety] training . . . should not affect the carrier's tax or other financial responsibilities," Tolliver said.

According to the Department of Labor, regulators look at the entire relationship to determine if a worker is an employee or an independent contractor, and increased safety training would not by itself be enough to change a driver's status.

Despite the Labor Department's position, Feary said carriers still should be concerned because "DOL is merely one of many agencies, both at the state and federal level, that all have their own set of policies and legal tests."

In addition, Feary said the Labor Department "tends to be slightly less Draconian and evangelical on the contractor issue than other agencies."

"The FMCSA doesn't concern itself with issues with independent contractor status and

while the [Internal Revenue Service] certainly has a concern on that issue, it has no concern . . . with CSA 2010," Feary said.

The IRS did not respond to requests for comment.

Feary said that fleets can protect themselves in many ways, ranging from providing owner-operators with voluntary CSA 2010 training for a fee, to testing new owner-operators before bringing them aboard. Ideally, he said, carriers would require an owner-operator to provide some certificate of training on CSA 2010.

Fleets might not run into trouble immediately, Feary said, adding that issues may arise a year or two into the program.

"You might get away with training an independent contractor under CSA 2010 as it is rolled out because it is new for everybody and . . . everybody's getting training to understand it," he said. "But over time, motor carriers are going to have to start asking themselves the question: 'Am I in trouble if I provide too much training to an owner-operator who's holding himself out as an independent truck-driving professional?'"

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(Chairman's Corner cont. from page 2)

remember to add new content to keep it fresh. In no time at all, your business will be out there conversing with existing and new customers, who will remember you first when the need arises for relocation services.

(President's Comments cont. from page 3)

Brown's office wrote the description, clearly demonstrating his CARB policy and creating an uphill battle in the campaign for public support of the proposition. The upcoming election on November 2 will provide the voters an opportunity to express their displeasure with the job killing aspects of a regulation based on an over-reaching agenda and a candidate for Governor would seemingly endorse that agenda will have consequences for trucking related businesses.

By the time you read this issue you should have already received an email that included

the current Mover's CARB Cheat Sheet developed by CleanFleets.net. This document describes the requirement of the On-road Diesel Truck regulations as they would look if the CARB Board accepts the proposed rule changes that CARB Staff presented at the June/July workshops. These changes while less than desired are a step in the right direction and at least begin to acknowledge the moving industry and the many challenges that the rule would create for low mileage truckers like local moving and storage companies.

CMSA continues to work for additional changes to the On-road Diesel Truck regulations. Specifically, persisting with the proposition that the current policy creates tremendous disparities and inequities when applied in the same or similar manner to both high and low mileage fleets. As a member of the CARB TRAC (Truck Regulations Advisory Committee) Small Business Subcommittee I will attend a July meeting at the Cal EPA building in Sacramento.

Labor Dept. Official Urges Passage of Bill to Curb Potential Worker Misclassification

By: Eric Miller, *Transport Topics*

Catching employers who misclassify their employees as independent contractors would help ensure a "level playing field in the marketplace," a top official with the U.S. Department of Labor told a Senate committee.

"During this fragile economic recovery, workers are too often exploited and caused to lose out on the benefits they rightfully earned, while employers who do right by their employees are placed at a competitive disadvantage that they cannot afford," Seth Harris, deputy secretary of Labor, told the Senate Committee on Health, Education, Labor and Pensions on June 17.

Harris testified at a committee hearing a bill that would amend the Fair Labor Standards Act of 1938 to require employers to keep records on non-employees who are paid to perform services, and provide civil penalties for employers who misclassify employees as non-employees.

The bill, introduced in April, has not yet been approved by the committee. A companion bill has been introduced in the House.

The use of independent owner-operators in the trucking industry is commonplace and enables motor carriers to save on equipment and capital costs and provides flexibility to meet fluctuations in demand for trucking services, according to American Trucking Associations. ATA estimated there are about 300,000 independent contractors working in the trucking industry.

The Coalition to Preserve Independent Contractor Status, a group of individuals, businesses and industry trade associations, including ATA, opposes the legislation.

In written testimony to the committee, the coalition said the bill's provisions would increase the regulatory risks of doing business with independent contractors to an excessively high

level.

"The bill does not take into account the unique business models that individual companies rely on to remain competitive, and would be particularly detrimental in these challenging economic times," the coalition's June 17 statement said. "The bill would unnecessarily add confusion and uncertainty to the long-standing administration of the Fair Labor Standards Act and thus undermine economic growth."

Harris, speaking at the hearing, testified that unscrupulous employers can hurt employees by not paying them minimum wage or paying for overtime, and by not providing them such benefits as health insurance, workers' compensation, or unemployment insurance.

Misclassified contractors also reduce revenue that otherwise would

flow into federal and state coffers because employers avoid paying unemployment taxes, workers' compensation premiums and payroll taxes, Harris said.

Sen. Tom Harkin (D-Iowa), the committee's chairman and a co-sponsor of the Employee Misclassification Prevention Act, said an estimated 10.3 million

workers in the United States are treated as independent contractors.

"That's roughly 7.3% of the workforce," Harkin said. "And a Department of Labor study found that as many as 30% of businesses misclassified employees as independent contractors."

Harkin added, "That means the construction worker who falls and breaks his leg is denied workers' compensation and the truck driver who works 60 hours a week doesn't receive the overtime pay his family deserves to help cover the rising costs of food and energy."

Republicans at the hearing said the legislation is unneeded, would create a paperwork

(Labor Dept. continued on page 7)

"The bill does not take into account the unique business models that individual companies rely on ..." — IC Coalition Rep.

(Labor Dept. cont. from page 6)

burden for small business and was an attempt to "demonize" the independent contractor model.

"This bill is a symbol of what's wrong with Washington today," said Sen. Mike Enzi (R-Wyo.). "This is a complete waste of time and money for small business."

During the hearing, Frank Battaglino, owner of Metro Test & Balance Inc., a Capitol Heights, Md., firm that offers sheet metal fabrication, installation and service, told the committee that his business has difficulty competing use independent contractors who have been misclassified.

"A company that regularly uses this practice can be at least 20(%) to 30% below our bids," Battaglino said. "So an honest company gets beat out by a company scamming the system and plain hard-working people are just being taken advantage of. Vague, complex, and subjective rules, legal loopholes and lax enforcement all contribute to the growth of this problem."

Colleen Gardner, commissioner of the New York State Department of Labor, said a special

task force on employee misclassification in her state resulted in 67 enforcement sweeps in a dozen cities, documenting nearly 35,000 instances of employee misclassification and more than \$457 million in unreported wages.

In addition, Gardner said, the task force identified more than \$13.2 million in unemployment insurance taxes due and more than \$14 million in unpaid wages.

"However, we have only scratched the surface of the problem in New York," Gardner told the committee. "There is much more work to be done."

Gardner said that a Cornell University study estimated that each year, about 10.3% of New York's private sector workforce either has been misclassified or is being paid off the books.

"This means that, because of misclassification, 10% of our workforce may not get the wage-and-hour protections to which they are entitled, including overtime pay and meal breaks," Gardner said.

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Weitekamp Elected a NCMA Director

The National Council of Moving Associations (NCMA) has elected CMSA President Steve Weitekamp as a director. NCMA has been meeting since 1968. Members are comprised of bona fide associations representing movers: state associations, AMSA, International Association of Movers, Canadian Association of Movers, and van line agents associations.

The Council's mandate is to work together to improve the moving and storage industry, including educating consumers and our member



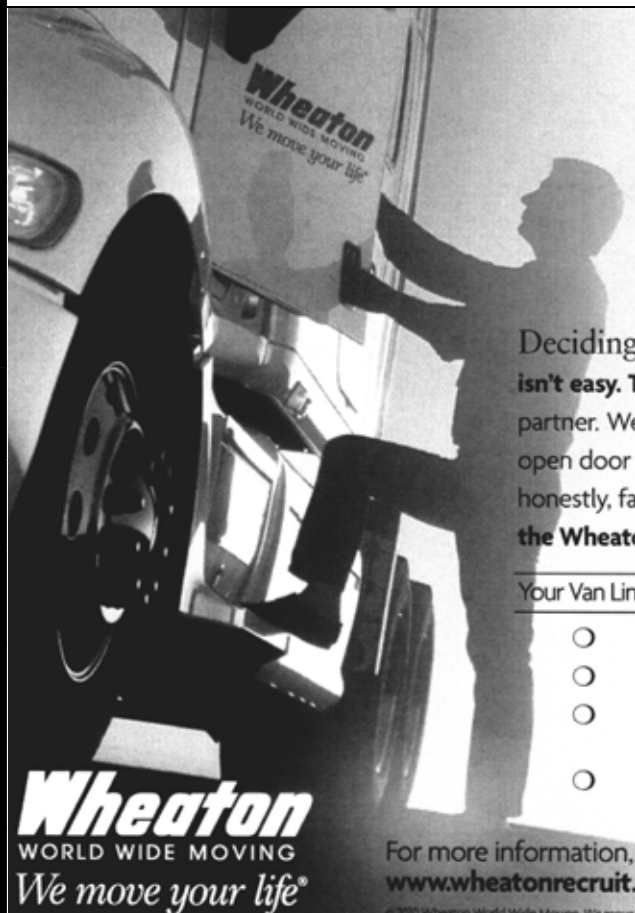
NCMA met June 8-10, 2010 in St. Louis, MO.

companies. The Council meets formally once per year, communicates regularly by e-mail and conducts informal meetings at national events.

Calendar of Events

Oct. 1, 2010
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FMCSA Defends CSA 2010 Model, Schedule

By: The Trucker Staff
Article originally appeared on
TheTrucker.com.

WASHINGTON — The trucking industry's top regulator says her agency is moving forward as planned with a long-awaited safety program, even as lawmakers and trucking representatives suggested the agency should focus more on getting the program right than on rolling it out on time.

Noting that a field test in nine states wraps up this month, Federal Motor Carrier Safety Administrator Anne Ferro on Tuesday told a House panel that preliminary findings show a 35 percent increase in investigations under Comprehensive Safety Analysis 2010, meaning more carriers are being reached, and with greater efficiency.

The highways and transit subcommittee called the hearing to get an update on CSA 2010, the new system to oversee motor carriers and commercial motor vehicle drivers.

"And we have anecdotal evidence of carriers who examined and changed their business practices as the result of a CSA 2010 contact and improved their safety — further confirming the old adage that, 'what gets measured gets done,'" Ferro said.

The rollout for CSA 2010 officially began in April with the carrier data preview, Ferro explained. As previously announced, the actual safety measurement system — in which carriers will be compared to industry peers — will be previewed in late August, followed by full public availability at the end of the year. Remaining components — warning letters, the intervention process and the new fitness determination rule — will continue to the end of fiscal year 2011, she added.

"By that time, CSA 2010 will be known only by its initials, 'CSA,' or compliance, safety, accountability," Ferro said.

The American Trucking Associations, however, continues to voice concern about the current design of CSA 2010.



"FMCSA deserves to be applauded for its development and implementation of CSA 2010 to date. The agency has gone to great lengths to test the program, develop and implement an extensive outreach and education program, and demonstrated a willingness to accept stakeholder input," said Keith Klein, executive vice president and chief operating officer of Minnesota-based truckload carrier Transport America, speaking on behalf of ATA. "However, ATA has a number of serious concerns relating to how CSA 2010 will work that, if not addressed, will have a dramatic impact on motor carriers and on highway safety."

Specifically, ATA would like for FMCSA to make crash accountability or "causation" determinations on truck-involved crashes before entering them into a carrier's record, so that drivers and carriers are held accountable only for crashes they cause; to use vehicle miles traveled rather than the number of trucks or power units, as a carrier's exposure measure; and to focus on using only actual citations for moving violations, not "warnings" issued by law enforcement.

ATA is also concerned about how the severity weights for violations are assigned; measuring carriers based on violations committed by drivers who have since been terminated; measuring carriers based on citations that have been dismissed in a court of law; inequitable measurement of open deck or flatbed carriers; overly broad peer groups; and inconsistent state enforcement practices.

(FMCSA Defends continued on page 11)

(FMCSA Defends *cont. from page 10)*

The Owner-Operator Independent Drivers Association, however, is “positive” about CSA 2010, said Executive Vice President Todd Spencer, who called it “a major step in the right direction.”

“For far too long, FMCSA’s enforcement priorities focused primarily on targeting truck drivers — and really didn’t go much farther at all,” Spencer said. “This has been an upside-down effort of drivers being held responsible for just about anything and everything related to trucking — a particularly absurd notion since drivers are not required to be trained on the vast majority of operator and equipment regulations for which they are being held responsible.”

Spencer also said that OOIDA doesn’t share “the sky is falling” view that CSA 2010 is going to pull hundreds of thousands of drivers off the road. The association does agree with concerns over warning tickets and at-fault accidents.

“This program, like any program, gets down to ‘the devil is in the details,’” Spencer said.

Subcommittee Chairman Peter DeFazio told Ferro that he was “a bit puzzled” as to the timing and implementation of the program. He noted that an official report on findings from the test

states isn’t due until December — so why not wait to roll out CSA 2010 nationwide until then?

Ferro replied that the operations model test had provided substantial information to verify the validity of the CSA 2010 measures.

“At this point we have a strong confidence in the system,” she said, noting FMCSA is continually fine-tuning the plan. “In terms of a first phase, we’re very confident that this is the right step to take this year.”

DeFazio also questioned the states’ ability to meet CSA 2010 program demands, including both legally and technologically.

Many states are still in “wait and see mode,” said Interim Executive Director Steve Keppler of the Commercial Vehicle Safety Alliance, the umbrella organization for state enforcement agencies.

“There are some concerns, it’s really an unknown at this point,” he said. “We’ll continue to work with FMCSA to get some clarity on what those implementation issues are.”

To Klein’s suggestion that carrier’s should be rewarded under CSA 2010 for getting rid of bad drivers — and not be saddled with their poor records — Ferro replied that carriers are not

(FMCSA Defends *cont. on page 12)*

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punished for “isolated incidents,” but that CSA 2010 looks for patterns that warrant intervention and correction.

“[Carriers] do well and reward themselves — their ratings down the road, their insurance view down the road, their shipper view down the road — by taking care of that driver appropriately, with dismissal,” Ferro said

Spencer argued that veteran drivers “have been spurned” since deregulation as companies look to fill seat with a series of less expensive, less experienced drivers.

“For the first time, it’s going to require the motor carrier industry to belly up to the bar and not only to assume responsibility, but that responsibility is going to engage them

on the real need to fix some of the situations that create unsafe atmospheres for drivers,” Spencer said, citing dealing with shippers and receivers, load and detention time. “At a minimum, what this program will do is drag the motor carrier kicking and screaming into this situation. You can’t simply pass the buck to the driver and say ‘we fired him, problem solved.’”

The accuracy of the data on which carriers will be measured — and the public availability of data — raised a number of concerns.

“Until we get the data to be accurate and reflective of the true performance of a carrier, making it public misrepresents those carriers that are safe and might get a false positive,” Klein said. “Or, even worse, having unsafe carriers operating that don’t get flagged in the system.”

And while OOIDA is similarly concerned with the accuracy of the data, Spencer complained that a large number of accidents are not DOT reportable — and therefore not counted.

“Our member’s trucks are crashed into at truck stops on a regular basis by many of the companies that simply churn out untrained, unqualified drivers simply to fill seats,” Spencer said. “These chronic driver shortages we have are nothing more than the industry’s propensity to burn up drivers. Those guys do have lots and lots of crashes, and those need to somehow be

reflected.”

Kepler admitted that data accuracy and consistency have been issues in the past, but that recent efforts to improve reporting from the states have worked.

“The data is valid, accurate and timely,” Kepler said. “The public availability helps encourage other people in the safety accountability chain to view that data and take action.”

Ferro also emphasized accountability, and noted the carriers have had the opportunity to

preview their data — and that those who have not should do so. Carriers should also use the DataQ process to challenge and correct erroneous reports.

Unfortunately, as DeFazio noted, the states may not have the resources — and are unlikely to receive much help — to fully respond to an expected onslaught of challenges, as car-

riers react to their public standing under CSA 2010.

“I’m very concerned about this phenomenon and how we’re going to deal with it,” DeFazio said.

Transportation Committee Chairman Jim Oberstar noted that when FMCSA was created, then-Transportation Secretary Rodney Slater announced a goal to reduce fatalities involving commercial motor vehicles by 50 percent within a decade. In ten years, the number of fatalities has fallen from 5,362 in 1999 to 4,229 in 2008 — an improvement, but far from the original goal.

Oberstar criticized the agency for “watering down” its statistics, measuring improvements by calculating the fatality rate based on vehicle miles traveled. He suggested that the agency needed to make the number of fatalities the bottom line when measuring the success of its mission.

Ferro assured him that the agency was very much aware of lives lost and saved.

“We don’t think in our daily work about rates. We think about people,” Ferro said. “Our focus is saving lives through a significant reduction in crashes with motor vehicles. CSA 2010 is a core component of ensuring that anyone we credential maintains a high standard.”

“Our focus is saving lives through a significant reduction in crashes with motor vehicles. [CSA 2010] credential maintains a high standard” —

Ferro, FMCSA Administrator

Atlas Van Lines Promotes Steve Hermann to Vice President of Agency Services

EVANSVILLE, Ind. — Atlas Van Lines has promoted Steve Hermann, a 32-year employee of the company, to vice president of agency services. In his expanded role, Hermann will work to recruit, retain and develop high-quality Atlas agents.

Hermann began his Atlas career in 1978 as part of the Atlas dispatch team. He has steadily climbed the Atlas ladder, formerly serving as the assistant vice president of operations, followed by the assistant vice president of agency development.

"Steve's had a great track record at Atlas and will continue to excel as a leader in his expanded role," said Dennie Lynn, senior vice



president of transportation services administration for Atlas Van Lines. "His expertise in recruiting and developing quality agents is vitally important to Atlas' growth."

Hermann was born and raised in Evansville and studied business administration at Indiana University.

Atlas Van Lines is the largest subsidiary of Atlas World Group, an Evansville, Ind.-based company. Atlas World Group companies employ nearly 700 people throughout North America. More than 500 Atlas interstate agents in the United States and Canada specialize in corporate relocation, household moving services and in the transportation of high-value items such as electronics, fine art, new fixtures and furniture.

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FMCSA Takes Action Against Mover

The Movers Group/Moving Van Lines case is finally finished. The two Compliance Reviews and the Notice of Claim (NOC) were hand-delivered to Ohad Guzi, manager and former President of The Movers Group. The NOC assessed a civil penalty of \$35,840 for 14 violations of false advertising, 1 violation of failing to provide reasonable dispatch, 4 violations of collecting more than the exact amount of a binding estimate at the time of delivery, 1 violation of operating when the carrier has been prohibited from operating for failure to pay a civil penalty, 3 violations of using a driver not medically examined and certified, and 3 violations of failing to maintain driver qualification files. The former company, Moving Van Lines, and the present company, The Movers Group, were linked for purposes of successor liability through the NOC and the CR. In the safety CR, the Movers Group received a Conditional rating.

We are referring the case to the Inspector General for further criminal investigation because of pervasive illegal activity. This information was assembled during a CR on The Movers

Group ("MG") and an examination of possible successor corporate linkage between MG and Moving Van Lines ("MVL"). MG is an active Florida HHG carrier and MVL is a Florida HHG carrier that has ceased operations. Both carriers are or have been located at the same addresses, been under common ownership, and have leased their vehicles from the identical Enterprise Leasing location. Both carriers have received numerous consumer complaints.

A Florida group operating HHG companies is constantly forming new companies, changing company officer names in the company operations, and posting widespread fraudulent advertising on the Internet. Ohad Guzi, probably a fictitious name, is the common and constant denominator in Movers Group and Moving Van Lines operations and in this Miami-based group operation. Moving Van Lines was placed Out of Service in 2009 & had their operating authority revoked after defaulting on a Notice of Claim in the amount of \$281,100.00.

Source: Jack Van Steenburg,
Director-Enforcement & Compliance FMCSA



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How Not to Get Hooked by a 'Phishing' Scam

"We suspect an unauthorized transaction on your account. To ensure that your account is not compromised, please click the link below and confirm your identity."

"During our regular verification of accounts, we couldn't verify your information. Please click here to update and verify your information."

Have you received an email with a similar message? It's a scam called "phishing" — and it involves Internet fraudsters who send spam or pop-up messages to lure personal information (credit card numbers, bank account information, Social Security number, passwords, or other sensitive information) from unsuspecting victims.

According to the Federal Trade Commission (FTC), the nation's consumer protection agency, phishers send an email or pop-up message that claims to be from a business or organization that you may deal with — for example, an Inter-

net service provider (ISP), bank, online payment service, or even a government agency. The message may ask you to "update," "validate," or "confirm" your account information. Some phishing emails threaten a dire consequence if you don't respond. The messages direct you to a Web site that looks just like a legitimate organization's site. But it isn't. It's a bogus site whose sole purpose is to trick you into divulging your personal information so the operators can steal your identity and run up bills or commit crimes in your name.

The FTC suggests these tips to help you avoid getting hooked by a phishing scam:

1. **If you get an email or pop-up message that asks for personal or financial information, do not reply.** And don't click on the link in the message, either. Legitimate companies don't ask for this information via email. If you are concerned about your

('Phishing' Scam cont. on page 16)

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(‘Phishing’ Scam cont. from page 15)

account, contact the organization mentioned in the email using a telephone number you know to be genuine, or open a new Internet browser session and type in the company’s correct Web address yourself. In any case, don’t cut and paste the link from the message into your Internet browser — phishers can make links look like they go to one place, but that actually send you to a different site.

2. **Area codes can mislead.** Some scammers send an email that appears to be from a legitimate business and ask you to call a phone number to update your account or access a “refund.” Because they use Voice Over Internet Protocol technology, the area code you call does not reflect where the scammers really are. If you need to reach an organization you do business with, call the number on your financial statements or on the back of your credit card. In any case, delete random emails that ask you to confirm or divulge your financial information.



3. **Use anti-virus and anti-spyware software, as well as a firewall, and update them all regularly.** Some phishing emails contain software that can harm your computer or track your activities on the Internet without your knowledge.

Anti-virus software and a firewall can protect you from inadvertently accepting such unwanted files. Anti-virus software scans incoming communications for troublesome files. Look for anti-virus software that recognizes current viruses as well as older ones; that can effectively reverse the damage; and that updates automatically.

A firewall helps make you invisible on the Internet and blocks all communications from unauthorized sources. It’s especially important to run a firewall if you have a broadband connection. Operating systems (like Windows or Linux) or browsers (like Internet Explorer or Netscape) also may offer free software “patches” to close holes in the system that hackers or phishers could exploit.

(‘Phishing’ Scam cont. on page 17)

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(**'Phishing' Scam** cont. from page 16)

4. **Don't email personal or financial information.** Email is not a secure method of transmitting personal information. If you initiate a transaction and want to provide your personal or financial information through an organization's Web site, look for indicators that the site is secure, like a lock icon on the browser's status bar or a URL for a Web site that begins "https:" (the "s" stands for "secure"). Unfortunately, no indicator is fool-proof; some phishers have forged security icons.
5. **Review credit card and bank account statements as soon as you receive them** to check for unauthorized charges. If your statement is late by more than a couple of days, call your credit card company or bank to confirm your billing address and account balances.
6. **Be cautious about opening any attachment or downloading any files from emails you receive**, regardless of who sent them. These files can contain viruses or other software that can weaken your computer's security.

7. **Forward spam that is phishing for information to spam@uce.gov** and to the company, bank, or organization impersonated in the phishing email. Most organizations have information on their Web sites about where to report problems.
8. **If you believe you've been scammed, file your complaint at ftc.gov.** And then visit the FTC's Identity Theft website at www.consumer.gov/idtheft. Victims of phishing can become victims of identity theft. While you can't entirely control whether you will become a victim of identity theft, you can take some steps to minimize your risk. If an identity thief is opening credit accounts in your name, these new accounts are likely to show up on your credit report. You may catch an incident early if you order a free copy of your credit report periodically from any of the three major credit bureaus. See www.annualcreditreport.com for details on ordering a free annual credit report.

You can learn other ways to avoid email scams and deal with deceptive spam at ftc.gov/spam.

Source: U.S. Federal Trade Commission



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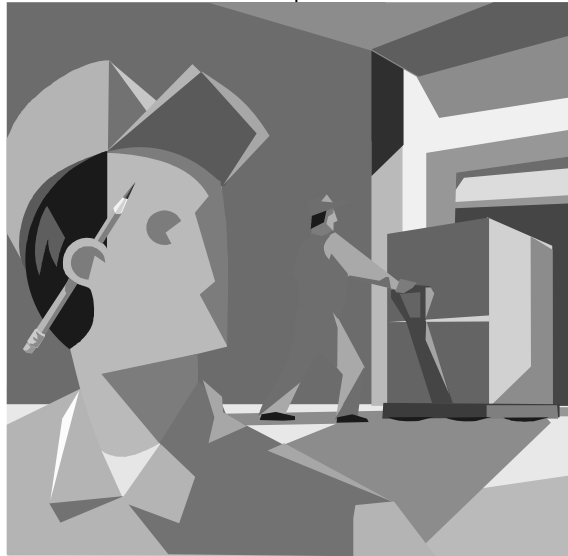
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Workplace 'Discrimination' Not Always Against the Law

My employee says her supervisor is discriminating against her. She says he gives her all the hardest assignments, and when she goes to him for help he is sarcastic and rude, but she does not know why. Is this illegal?

Unfortunately, nobody says you get to have a delightful day at work every day, or that your boss has to be nice to you. While the situation you are describing may be unpleasant for the employee, it may also be perfectly legal.



word means in a legal sense. Discrimination is simply treating someone differently based on the group, class or category to which that person belongs.

Managers need to know that discrimination is illegal only if it is based on a group, class or category specifically protected by law, or if it is done in such as filing a workers' compensation claim.

For example, discrimination based on a person's sex, race, national origin or age is clearly illegal. Demoting an employee because he/she has exercised his/her right to take family leave to bond with a new baby would be against the law.

'Discrimination' Definition

Employees often throw around the word "discrimination," but may not know what that

word means in a legal sense. Discrimination is simply treating someone differently based on the group, class or category to which that person belongs.

(Discrimination cont. on page 19)



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Similarly, it is unlawful to refuse to give a raise to an employee who has otherwise earned it, but who takes time off work each week to attend religious services.

Legal 'Discrimination'

On the other hand, discrimination based on other characteristics or factors is perfectly legal and actually quite common. For example, one group of employees may be treated better than another based on the category of seniority, by giving employees with more seniority more vacation.

A manager could give hiring preference to applicants who earned a degree from a University of California campus versus one from a California State University.

A company could offer a better benefits package to employees who work in its office compared to what is offered to its warehouse employees, or allow a more relaxed dress code for the warehouse employees.

In each instance, a group or class of employees or applicants is being treated differently than another group or class, based on any category protected by law, the "discrimination" is not

illegal.

Identify Discrimination Type

The issue at hand for the employee who is complaining of discrimination because she gets tough assignments and has a sarcastic and rude supervisor is to find out why she thinks the supervisor is treating her that way. Unless the employee claims it is related to her race, sex, national origin or some other characteristic protected by law, or unless the employee claims it is retaliation for having exercised some legal right (such as reporting a safety violation to the Occupational Safety and Health Administration), there is no *illegal* discrimination. More often, the employee will say something like "I just think he doesn't like me."

Of course, regardless of whether there is illegal discrimination, an employer would be wise to look into the supervisor's behavior and determine whether the company would benefit by providing him counseling in more appropriate personnel management techniques. While his behavior may not be illegal, it certainly does not create a productive work environment and could lead to meritless, but expensive, legal claims.

Source: California Chamber of Commerce Alert

CLASSIFIED ADVERTISING

CHARGES: 1-5 lines \$15; \$2 each additional line. CMSA box number \$5; Non-member charge: \$30 additional. Special heading/set up extra. Replies to ads noting box numbers to be sent to: CMSA Communicator, 10900 E. 183rd St., #300, Cerritos, CA 90703. Call Brianna Wahlstrom at (562) 865-2900 to place your advertisement.

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HISTORICAL PHOTO

As the CMSA closes in on its 100th year, join us in looking back down memory lane at these wonderful historical pictures. If you have any pictures you would like to share, please e-mail them in jpeg format to: bwahlstrom@thecmsa.org.

In 1955, this photograph was taken on a staircase during the 37th Annual Convention at El Mirador Hotel in Palm Springs, CA.

The group included the George Normingtons; Harriet Tatum; the Phil Shambaughs; the John Kleimers; the Tom Kings; the W.W. DeWitts; and Cecil Tatum.



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