



J.B. HUNT TRANSPORT, INC.

April 29, 1996

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LEGIS./REGS. DIV.
MAY 8 10:18
FEDERAL HIGHWAY
ADMINISTRATION

Docket Clerk Room 4232
Office of Chief Counsel
Federal Highway Administration
400 Seventh Street S.W.
Washington, DC 20590

FHWA-97-2277-4

RE: FHWA Docket No. MC-96-6
Proposed Rule Making Request for Comments

J.B. Hunt has always sought safety information from previous employers and believe that employers should be cognizant of a drivers prior safety performance. We agree that a former motor carrier should be required to respond within 30 days on all terminated drivers employment requests. However, we see no correlation to out of service orders and a driver's prior safety performance. There are currently fatigue studies that may clarify some correlation between hours of service and safety , but as of now no correlation exists. Additionally, out of service violations may as easily come from lack of completing paperwork properly than actual violation of hours. This is information that is sometimes never received by the carrier. The timing of getting the carrier profile (over 6 weeks) would require us to give out incorrect or incomplete data as well. Many state enforcement agencies are 60 - 90 days behind in entering road side inspection information which would make the information we receive relatively useless when you add that to another 45 days to get the profile. Our drivers had in excess of 1,600 roadside inspections the first quarter of 1996. In order to combine these into the drivers file would require hardware purchase, extensive programming and adding full time positions to scan and record documents.

If 382.413 is to be amended to require employers to investigate all drivers failure to undertake or complete rehabilitation or violations of 382 (subpoint b), changes must be made to require employers to get the information "pre-offer". If information is not acquired pre-offer, then the verification will become a two step process: A) Get employment and safety information from former carrier - document, B) make offer and get drug and alcohol information - this will serve to increase the workload of our personnel departments by over 30%. Currently we follow this process only on the drivers we plan to hire, not all applicants. The issues between FHWA and EEOC should be resolved by the regulations and should not leave the carrier in the precarious position of trying to impossibly comply with both.

The majority of OTR companies do not retain drivers after a positive drug or alcohol test, so it will be cumbersome, if not impossible, to ascertain if rehabilitation was completed, or if the driver ever responded to the Substance Abuse Professional (SAP) that they were offered.

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The proposed rules are unclear in the intent of the drivers right to review and comment on information. Is this only upon driver request? Is the information that they are allowed to see only the information off the accident register?

If the requirement is to notify these potential drivers regardless of request and for them to be able to peruse all information obtained, this could well cost us alone a million dollars simply in increased paperwork, programming, and additional personnel. Plus it will serve to reduce, not increase the amount of information you are able to obtain on a driver. Companies fearing lawsuits will give only the bare minimum required. The result will be hiring drivers with less pertinent information than prior to these changes.

Also the time spent dealing with former driver's disputes over their files will require several thousand hours of time of upper and mid level managers. Subjective information such as accident preventability and eligibility for rehire will almost always be incorrect in the drivers opinion if it is keeping them from being employed.

Proposed regulations requiring the information obtained from a previous employer to contain alcohol and drug information of the previous employer obtained from their original investigation should be allowed but not required. This could cause us to give references that were incorrect from other employers without any first hand knowledge of the file.

Since information will be required on references that we have not been required to keep with the personnel records, the new information should not be retroactive. Carriers should only be required to provide information required by these regulations on drivers who have terminated after the effective date of the regulations and only on these from the effective date forward.

We do not agree that this does not constitute a significant regulatory action for the purposes of Executive Order 12866 or a significant regulation under the regulatory polices and procedures of the D.O.T. These proposed changes WOULD cause an annual impact on the economy of over 1 million. These changes do create an inconsistency with EEOC guidelines for ADA.

To summarize we believe the following should occur:

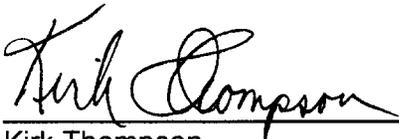
- 1) Out of service hours should not be required
- 2) Resolve the drug and alcohol information with EEOC so that it can be obtained "pre-offer"
- 3) Do not require the carrier to keep information on rehabilitation completion if driver is not retained.
- 4) Driver should have ability to review only the documents required by the regulations and then only upon written request.
- 5) Change compliance of the proposed rules to be only on drivers terminated after the effective date of the regulations and then only from effective date forward.

For each 100 persons who apply with J. B. Hunt, only an average of 12 are hired that have been judged to have an acceptable safety profile necessary to drive trucks.

Because of hiring so few from so many, our search process is streamlined and precise. These regulations, as written, are focused in granting the 88 we did not hire to have options of appeal that were previously non-existent.

It does not make good business sense nor meet our obligation to the public to hire unsafe drivers. The carriers are expert in the business of hiring. More disclosure regulations remove from companies the latitude necessary to hire safe drivers and focus the emphasis on litigation issues, often to the benefit of irresponsible but persistent applicants.

We do appreciate your efforts to make the needed safety information more accessible, however, the information required should be pertinent and should not require excess documentation burden on the carriers.



Kirk Thompson
President and CEO



Wayne Garrison
Chairman of the Board

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