

Commercial Drivers Get Added Protection against Coercion in New FMCSA Rule

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A regulation issued by the Federal Motor Carrier Safety Administration (FMCSA) will give commercial truck and bus drivers additional protection from being coerced into violating federal motor carrier safety regulations. [The rule](#), which was proposed in May 2014, goes into effect on January 29, 2016.

The rule, released on November 30, prohibits any entity that operates a commercial motor vehicle in interstate commerce from coercing a driver and gives FMCSA enforcement authority over shippers, receivers, and transportation intermediaries, as well as motor carriers.

According to FMCSA, the rule responds to complaints from commercial drivers who reported receiving various forms of pressure to violate federal safety regulations, including those involving hours-of-service limitations designed to prevent fatigued driving, commercial driver's license requirements, drug and alcohol testing, transportation of hazardous materials, and commercial regulations applicable to such activities as carrying passengers and moving interstate household goods. The threats include job termination, reduced pay, and forfeiture of favorable work hours or transportation jobs, FMCSA said.

"Any time a motor carrier, shipper, receiver, freight-forwarder, or broker demands that a schedule be met, one that the driver says would be impossible without violating hours-of-service restrictions or other safety regulations, that is coercion," FMCSA Acting Administrator Scott Darling said in a November 27 statement announcing the rule. "No commercial driver should ever feel compelled to bypass important federal safety regulations and potentially endanger the lives of all travelers on the road."

The rule establishes procedures for drivers when reporting coercion incidents and for FMCSA when processing such reports. FMCSA said a substantiated report of driver coercion could result in civil penalties and initiation of a proceeding to revoke a motor carrier's operating authority. Any fines collected would be deposited into the Highway Trust Fund.

Drug and alcohol testing rules, hazardous materials regulations, and limits on drivers' work hours also are covered under the regulation.

FMCSA is an agency within the U.S. Department of Transportation. The Occupational Safety and Health Administration, a Labor Department entity, has provided whistleblower protection to commercial truck and bus drivers since the Surface Transportation Assistance Act ("STAA") went into effect in 1982. STAA and OSHA regulations protect drivers from retaliation for reporting or engaging in activities related to specified commercial motor vehicle safety, health, or security issues. In June 2014, the FMCSA and OSHA signed a memorandum of understanding to exchange allegations of safety, coercion, or retaliation when drivers file them with the wrong agency.

During the four-year period from 2009 through 2012, OSHA determined that 253 whistleblower complaints from commercial motor vehicle drivers had merit, the FMCSA said, as reported by *Bloomberg BNA*. In the same period, the FMCSA validated 20 allegations of coercion that commercial drivers filed with the Transportation Department's inspector general.

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