

TRANSPORTATION LAW ALERT

12/1/15

Driver Coercion Rule is Final and Effective January 29, 2016

Yesterday, November 30, 2015, the Federal Motor Carrier Safety Administration (FMCSA) adopted regulations that prohibit motor carriers, shippers, receivers, and transportation intermediaries from coercing drivers to operate commercial motor vehicles in violation of certain provisions of the Federal Motor Carrier Safety Regulations, including those that relate to hours-of-service, drug and alcohol testing, and hazardous materials transport.

The regulations outline procedures for drivers to report incidents of coercion directly to the FMCSA, and rules of practice for the FMCSA to follow in response to such reports. Penalties may be imposed on motor carriers and other entities found to have coerced drivers.

The rulemaking is authorized by section 32911 of the Moving Ahead for Progress in the 21st Century Act (MAP-21) and the Motor Carrier Safety Act of 1984 (MCSA), as amended.

The regulations, which become effective January 29, 2016, define “coercion” as one of the following:

- (1) A threat by a motor carrier, shipper, receiver, or transportation intermediary, or their respective agents, officers or representatives, to withhold business, employment or work opportunities from, or to take or permit any adverse employment action against, a driver in order to induce the driver to operate a commercial motor vehicle under conditions which the driver stated would require him or her to violate one or more of the regulations, which the driver identified at least generally, that are codified at 49 CFR parts 171-173, 177-180, 380-383, or 390-399, or §§ 385.415 or 385.421, or the actual withholding of business, employment, or work opportunities or the actual taking or permitting of any adverse employment action to punish a driver for having refused to engage in such operation of a commercial motor vehicle; or
- (2) A threat by a motor carrier, or its agents, officers or representatives, to withhold business, employment or work opportunities or to take or permit any adverse employment action against a driver in order to induce the driver to operate a commercial motor vehicle under conditions which the driver stated would require a violation of one or more of the regulations, which the driver identified at least generally, that are codified at 49 CFR parts 356, 360, or 365-379, or the actual withholding of business, employment or work opportunities or the actual taking or permitting of any adverse employment action to punish a driver for refusing to engage in such operation of a commercial motor vehicle.

49 C.F.R. 390.5.

In the operative regulation, coercion is prohibited as follows:

- (1) A motor carrier, shipper, receiver, or transportation intermediary, including their respective agents, officers, or representatives, may not coerce a driver of a commercial motor vehicle to operate such vehicle in violation of 49 CFR parts 171-173, 177-180, 380-383 or 390-399, or §§ 385.415 or 385.421;
- (2) A motor carrier or its agents, officers, or representatives, may not coerce a driver of a commercial motor vehicle to operate such vehicle in violation of 49 CFR parts 356, 360, or 365-379.

49 C.F.R. 390.6(a).

For further information, please contact the following attorneys in Roetzel’s Transportation & Logistics Team:

Brad Wright
330.849.6629 | bwright@ralaw.com

Christopher E. Cotter
330.849.6756 | ccotter@ralaw.com

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