

Trucking- The unsafe state of the industry

By David G Dwinell Master Broker

Biography summary, Mr Dwinell is an experienced trucking entrepreneur, logging over 35 years of motor carrier and brokering market experiences. He is the professor of transportation @ loadtrainiig.com. Since 1987, he has provided weekly consultations to North American trucking professionals, capital fund managers, and most recently, attorneys who seek to understand the relationship myriad of new transportation player..

All segments of the American transportation industry are flourishing, air, rail, and trucking due to surging demand driven by the most acute shortage of drivers since the teamster shortages of the Civil War. However; the price of the trucking boom, plummeting highways safety.

The trucking market is fragmenting into thousands of small businesses. In 1981, total trucking grants of motor carrier Authority from the ICC were in the range of 15,000, while topping the 300,000 number in 2005 according the Federal Motor Carrier Safety Administration (FMCSA, successor to the ICC). As of this writing, hundreds of grants of motor carrier Authority are made each day, with no end in sight. This does not mean that more and more trucking capacity is available, only that existing trucking capacity, is changing into a less regulated, consequently a more dangerous form of transportation.

Deregulation means that anyone with a truck and insurance can be a trucking company simply by paying the FMCSA fee, waiting a few weeks, and then drive an 80,000 lb fully loaded tractor trailer down Americas highways. This government fostered “safety vending machine atmosphere” is creating havoc for shippers, consumers, even hurricane victims, but most importantly Americas unsuspecting motoring public.

Shippers have to make dozens more phone calls to find and secure trucking transportation, today vs yesterday. The number of qualified and marginally qualified motor carriers available for loading presents a staggering number of purchasing choices never before available. The odds of purchasing an under qualified motor carrier are greater daily. Trucking choices have reached the levels of chaos usually found in airline pricing structure. You can visit the Airlines counter at the airport, and pay \$1,000 for a seat, you can buy on your laptop for \$250. Shippers are hardly able to keep up with all of the new motor carrier qualifications they must make, before shipping their product.

The driver shortage, already in its seventh year, has been pinched beyond repair by recent Federal Hours of Service regulations, that essentially cut owner operators take home pay by 20%.. The Government instituted their Hours of Service rules amidst threats of law suits, under the dubious catchall “safety” issue. They showed facts that by cutting the numbers of hours drivers could drive, they would reduce the number of tired drivers on the roads, and save lives. This shortsighted Federal measure had the opposite affect on public safety. Truckers, required by contract to maintain tight just-in-time (unregulated) shipping schedules, are required to put another 140,000 trucks, daily on American highways; obviously the more trucks, the more highways casualties.

Drivers pay went up, shipping prices went up, but owner/operators, those who work for a set rate/miles and pay for fuel from that sum, got little or nothing.

Owner operators, those truckers who had no motor carrier Authority, are the hundreds of weekly DOT Authority applicants. The nations largest motor carriers, those most dependent on owner operators, are finding their former employees are now their competition.

The largest motor carriers are doubling their marketing efforts to find more owner operators, offering to sell them the truck they are driving for \$1, while their own revenue tonnage per movement is shrinking. John Henry take notice, supply and demand freight rates are the highest on record, but these same large carriers try to convince an owner operator to work for ninety cents per mile, while the common truck stop knowledge is that the motor carrier is invoicing shippers for more than twice the amount. For the first time in history, the motor carrier per mile fuel costs exceed drivers per mile pay. The owner operator has to pay his bank loan, maintenance, tires, taxes and fuel from his low rate of pay, some still hovering at 84 cents per mile to owner operators for a permanent lease.

Transportation economics is sacrificing public safety. So much money can be made in the marketplace, that double brokering is a daily occurrence in the thousands of transportation contracts. Double brokering is the act of one licensed transportation broker contracting a freight move with an authorized motor carrier, and that freight rate being high enough for that carrier to turn around and broker the load to another motor carrier, without the first transportation brokers permission, now figure out who is who after a motor carrier accident

Look at this burgeoning transportation practice, logistics companies, licensed forwarders and licensed brokers are declaring an interest in the cargo, the thing that creates revenue. Statute and regulation muddle the ownership issues of control and responsibility, when prohibition used to be the watchword. Consignor/Shippers are creating more Bills of Lading with one name on the Bill of Lading as "carrier" that does not correspond with motor carrier name that is on the door of the transporting truck. This problem creates fertile land for a crop of public safety irresponsibility.

Double Brokering means that the shipper's consignment is lost in a fog of ownership issues, covered by a mist of Agency, somewhere certainly not providing for an umbrella of public safety.

Most motor carrier drop shipments have a Bill of Lading made out to "your truck". More lawsuits are coming down to matters of Agency, Independent Contractor, and a host of new persons who are probably "vicariously liable".

The Department of Transportation, under Clinton Administration was in a mode of complete neglect. Just the opposite during the Bush administration, whose publicly stated DOT goal is to inspect every new motor carrier's safety program within 90 days of start. With burgeoning daily applicants, regulatory inspection is a beyond elusive, into the realm of fantasy.

Trucking is a goldmine. There has never been a better time to go trucking in the United States. Freight rates have never been higher. Fragmentation, a shortage of qualified drivers, a shortage of trucking capacity, are all converging at the point of accountability for public safety.

The Federal Department of Transportation has shown a complete inability to correct their regulatory shortcomings, coupled with a new Federal Agency called the Transportation Security Administration, who defines transportation security as fingerprinting Hazardous Materials Drivers, in hopes that terrorist will all subscribe to the new rules, thus preventing a motoring 9/11

Lets see, have I missed something, oh right, The new Transportation Bill, just signed into law, grants Secretary Mineta, the power to dispense with regulating Transportation Brokers and Freight Forwarders, and is presented with the option of sending the trucking of our food supply to the Department of Agriculture for regulation. If there ever was a regulatory situation begging for leadership, examine trucking closely and prepare yourself for startling results.

Trucking market fragmentation plays into the hands of terrorist. Individuals State transportation regulatory scale houses create a slipshod security sieve for any knowledgeable terrorist to insert his WMD cargo of destruction. Imagine the results of 48,000lbs of toxic

chemicals or explosive agricultural fertilizer if a class 8 truck explodes, a truck with 3-4 times the size of the Oklahoma bomb.!

Ask any trucker, the scales houses devote virtually all of their manpower and administrative expense to running down “weeping bolts”, and “under inflated tires”, than to examining cargo, Bills of Lading that don’t match the name on the truck and other national transportation security issues.

There have been several congressional efforts to nationalize the scale house, creating one uniform code for safety, and creating a clearing house for the crazy quilt State Tax collection system, but none since 9/11.

The new TSA is moving forward with their new transportation security initiative for fingerprinting Hazardous Material drivers, while at the same time continuing to allow trailers placarded “Explosive” to roam free on American highways available for instant hijacking. It seems its all about international containers, and not about security bar codes.

Double Brokering will be the preferred method for distributing a truck cargo as a WMD to, say Chicago “Loop”. A terrorist would paint the words Milk Powder his 80 – 55 gallon drums of Sodium Cyanide, post his load any Internet site, offering six times the going freight rate, which will guarantee the cargo will be brokered from one motor carrier, to another motor carrier, to another motor carrier, until the rate is soo cheap, that the load will be delivered to the Loop. Double brokering makes running terrorists to ground virtually impossible. What is remarkable about this scenario, is that the truck will have gone through at least 12 State scale houses (read security inspection opportunities), probably paying a safety ticket for cracked tail light, but still got to its destination.

These are some of the “new” issues confronting attorneys. Look for a huge increase in the number and complexity of the questions involving public safety, personal injury, terrorism and its affect on the Bill of Rights, and remember, the next time you take away a trucker’s interval on the highway, don’t reach for the umbrella of public safety, it went away...

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