



## REPORT OF THE INSURANCE TAX FORCE OF AMERICAN TRUCKING ASSOCIATIONS

CHAIRMAN: L. Duane Long, Chairman, Longistics, Raleigh, North Carolina (919) 872-7626

VICE CHAIRMAN: Bobbie Strong, Corporate Director, Safety, Lynden Incorporated, Seattle, Washington (206) 439-5535

ATA STAFF LIAISON: Richard D. Holcomb, ATA General Counsel & Senior VP (703) 838-1865  
Robert Digges, Jr., ATA VP & Deputy Chief Counsel (703) 838-1865  
Robert C. Pitcher, ATA VP, State Laws (703) 838-7939

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The Insurance Task Force last met in Arlington, Virginia, on February 22, 2009, in conjunction with ATA's Winter Leadership Meeting. A report on that meeting has been submitted to the Executive Committee.

**Financial Report.** The ITF finances continue to be in good shape, with cash on hand of approximately \$31,000.

**Progress & Prospects for Reform, 2009.** Much of the legislative activity this year at both the state and federal level in the area of tort reform has been defensive, both to prevent the passage of legislation to enact the agenda of the trial bar and to defend against the repeal of tort reforms previously achieved. So far, these defensive efforts, at least in the areas represented by the specific goals of the Task Force, have been largely successful. In addition, some favorable tort reforms at the state level have been achieved in 2009, in the following areas:

**General Tort Reform Legislation.** Oklahoma has enacted a general tort reform bill (HB 1603), effective November 1, 2009, that would, among many other things, strengthen the authority of a court to decide that it is an inappropriate **venue** for a particular action under the *forum non conveniens* doctrine; strengthen the state's restriction on **joint and several liability** to a defendant more than 50% liable for an injury; cap awards for **noneconomic damages** at \$400,000 in most circumstances; permits the introduction of evidence of the **nonuse of a seat belt**. This legislation marks the culmination of an effort of several years, both on the part of the Oklahoma Trucking Association and of the ITF, which funded the effort over a period of three years.

**Anti-Indemnification Legislation.** The states of Georgia, New Mexico, North Dakota, and Wyoming have all enacted legislation modeled on the ATA model anti-indemnification bill that prohibits shippers from shifting liability for their own negligence to motor carriers. The efforts in New Mexico and North Dakota were funded by the ITF. At this writing, similar legislative efforts are still under way in Connecticut and Illinois. The effort in Colorado failed this year, after an intense struggle with oil and gas interests. The trucking associations of Colorado and a number of other states intend to try for anti-indemnification legislation next year.

**Primary Seat Belt Legislation.** Arkansas and Florida have enacted laws that permit the primary enforcement of seat belts, effective July 1. Similar efforts failed in Arizona, Colorado, North Dakota, Ohio, Utah, and West Virginia.

**State Association Funding.** Since its meeting this winter, the Task Force received a request for funding for general tort reform from the South Carolina Trucking Association, which it approved in the amount of \$10,000. Altogether, the Task Force has funded 13 state trucking associations for this year: Arizona, California (funded through the Civil Justice Association of California), Colorado, Florida, Missouri, New Mexico, North Dakota, Ohio, Oklahoma, South Carolina, Utah, West Virginia, and Wisconsin.

Respectfully submitted,  
L. Duane Long, Chairman