



AMERICAN TRUCKING ASSOCIATIONS

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November 10, 2009

Mr. Gabe Klein, Director
District Department of Transportation
Government of the District of Columbia
Frank D. Reeves Municipal Center
6th Floor
2000 Fourteenth Street, N.W.
Washington, DC 20009

Dear Director Klein:

The American Trucking Associations (ATA), the Maryland Motor Truck Association (MMTA), and the Virginia Trucking Association (VTA) are writing you concerning the enforcement on motor carriers by the District of Columbia of the requirements for oversize and overweight vehicles as outlined in the enclosed information sheet issued by the District Department of Transportation. ATA, MMTA, and VTA believe that the credential requirements described on the sheet are a violation of federal law (49 U.S. Code section 14506) and that the underlying permit requirements for overlength vehicles appear in large part to be a violation of District law as well (18 Code of D.C. Regs. section 2502.11).

ATA, based in Arlington, Virginia, is a national federation of all types and sizes of motor carriers, as well as allied industries, individual-member councils, affiliated conferences of specialized carriers, and fifty affiliated state trucking associations, representing altogether some 37,000 motor carrier members.

Founded in 1935, MMTA is a 950-member non-profit trade association that represents the state's trucking industry through a range of informational, educational, regulatory, legislative, and business-development initiatives.

VTA is a statewide, non-profit association of trucking companies, private fleet operators, industry suppliers, and other firms and individuals interested in the well-being of motor freight transportation at the local, state, and national level.

Good stuff.



D.C. Regulation

District of Columbia regulation, 18 Code of D.C. Regulations section 2502.11, reads as follows:

Commercial motor vehicles with semi-trailers with a kingpin distance of forty-one feet (41 ft.) or less (measured from the kingpin to the center of the rear axle, if single, or the center of a group of rear axles), shall not be subject to the limitations specified in §§ 2502.1, 2502.2 and 2511.3.

This exception does not appear relevant to straight trucks, addressed by section 2502.1, referenced above, but it is highly relevant to combination vehicles over 55 feet in length, described by section 2502.2, which would, but for the exception in section 2502.11, be subject to the general permit requirements of section 2511.3. In effect, section 2502.11 says that, provided a commercial combination vehicle has the requisite kingpin setting, it is not subject to the District's permitting requirements solely by reason of its combined length. (Overwidth, overheight, or overweight vehicles may still be subject to permitting under other regulations.)

ATA, MMTA, and VTA request the Department to clarify the information it has issued with respect to permitting requirements for combination vehicles over 55 feet in length, so that motor carriers may understand what is properly required of them and so that enforcement may proceed in accordance with District law.

Federal Law

Section 4306 of the 2005 federal highway reauthorization bill, SAFETEA-LU (P.L. 109-59), effective August 10, 2005, and codified at 49 U.S. Code section 14506, generally preempts state and local requirements for interstate motor carriers to carry or display any form of identification in or on a commercial motor vehicle. The only exceptions are credentials required in connection with (1) the International Registration Plan, (2) the International Fuel Tax Agreement, (3) a state law regarding motor vehicle license plates, (4) federal requirements for the transportation of hazardous materials, (5) federal vehicle inspection standards, and (6) state weight-distance taxes.

This provision of SAFETEA-LU appears clearly to preempt the credential requirements associated with the District's permit described in the enclosed information sheet and issued under the authority of 18 D.C. Code sections 2508.3 and 2508.5. The federal preemption extends beyond the requirements with respect to overlength vehicles dealt with above, and reaches all such permits for oversize or overweight vehicles issued by the District.

An identification requirement similar to the District's, imposed by Oregon in connection with that state's weight-mile tax system, was earlier determined by the United States Department of Transportation to be preempted. See *Identification of Vehicles: Oregon Department of Transportation Tax Credentials Petition for Determination*, Docket no. FMCSA-2006-25004, 72 *Fed. Reg.* 9996 (Mar. 6, 2007) (copy enclosed).

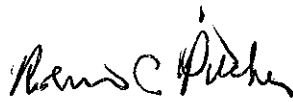
In finding the Oregon cab-card credential to be preempted, the U.S. DOT noted that “ensuring that the paper documents are distributed to and carried on each vehicle, and that [the] driver has ready access to the document, could add considerably to the paperwork burden of the carrier and driver, especially if similar documents were to be required by other States.” The agency further observed that “[t]he fact that enforcement could be ‘more challenging’ does not outweigh the burden that the additional paperwork places on carriers engaged in interstate commerce” and concluded that tax compliance identification credentials such as the Oregon cab card “are exactly the type of display Section 4306 was enacted to prohibit.”

We submit that there is little question that the District’s credential requirements associated with the permit for oversize and overweight vehicles fall squarely within the scope of preemption found by the U.S. DOT in the Oregon matter. Indeed, the District requirement that a metal tag be affixed to a vehicle and displayed by those holding annual permits is arguably even more burdensome for the industry than the paper cab card found preempted in Oregon.

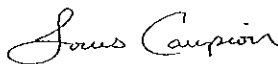
Conclusion

ATA, MMTA, and VTA request that the District (1) correct the information released by the Department concerning permits required for commercial vehicles with an overall combined length exceeding 55 feet, and to cease enforcing any such requirements on vehicles operated under the exception in 18 Code of D.C. Regs. section 2502.11, and (2) recognize that the credential requirements imposed on interstate motor carriers by Chapter 25 of Title 18 are preempted by federal law, and cease enforcing any such requirements. We would appreciate confirmation within sixty days of your intent to take these steps. Absent voluntary rescission of the requirements by the District, we reserve the right to take other appropriate legal action.

Sincerely,



Robert C. Pitcher
Vice President, State Laws
American Trucking
Associations



Louis Champion
Senior Vice President
Maryland Motor Truck
Association



P. Dale Bennett
President & CEO
Virginia Trucking
Association

Enclosures: DDOT Release on Oversize and Overweight Vehicles
U.S. DOT Decision, Docket no. FMCSA-2006-25004

cc: The Honorable Adrian Fenty
Eulois Cleckley, DDOT
William C. Auchter, The Kane Company