



Blog by Tommy Ruke, The King Pin – Leading Expert in Truck Insurance

December 2014 Thoughts

I had a call from Representative Barletta's office concerning the letter that I wrote last month and shared with you. I relayed that I felt the insurance industry is a stakeholder in the discussion and we talked about our input. She asked to be kept abreast of the MCIEF activities.

Also, one of our members suggested that MCIEF members might want to write their local representatives to share their feelings about CSA and asked me to draft a sample letter.

I do feel that it is important to support the motor carrier industry. We have all talked about the concerns with CSA.

A sample letter to send to your local representatives follows.



P.O. Box 2030
Ft. Myers, FL 33902
(239) 997-4084

Date

Representative _____

Re: Safer Trucks and Buses Act

Dear Representative _____:

I am a member of the Motor Carrier Insurance Education Foundation, a not-for-profit entity dedicated to sharing the regulations of the motor carrier industry with their insurance providers in an effort to make it easier for a motor carrier to obtain insurance as well as assist the motor carrier to be a better insured.

I note Representative Barletta's efforts to require the FMCSA to stop publishing safety scores and to prevent CSA scores from being used as evidence in liability cases. I see the same suggestions with others like CVSA. The motor carrier industry is embracing safety and using any effort at any level to reduce crashes. Reduced crashes benefit all including the insurance industry, but as the GAO and ATRI studies have reflected the current CSA safety scoring is flawed and not a true measure of "safety".

At the recent MCIEF Annual Conference, the past chairman of the ATA, Phil Byrd, stated that CSA scores are used too much in making insurance decisions. During the conference, Dan Murray of ATRI, Rob Moseley of Smith Moore Leatherwood, and other speakers discussed the flaws with CSA.

The insurance industry might be using CSA too much. Sometimes scores are relied on as the only measurement of who to provide coverage to. This is a major concern but not the one that costs money at claim time. The bottom line is if something costs money while handling a claim, then the information must be considered at underwriting and pricing. It is at loss time that the CSA information is being used in court cases to imply the motor carrier was negligent and to establish liability when in a lot of cases the motor carrier and

the operator of the CMV did nothing wrong. Whether this information is admissible or not is an open question and in large part depends on the court the case is being addressed in. CSA information is being used as a smoke screen to take the focus away from the cause of the accident to the scores, "Look here, these are bad people." The insurance carrier has to decide do we pay more because of the possibility of the judge allowing the court and jury to decide (who do not understand what CSA is).

From SMS Methodology:

What is the motor carrier Safety Measurement System (SMS)?

The Federal Motor Carrier Safety administration's (FMCSA) SMS is an automated system that quantifies the on-road safety performance of motor carriers so that FMCSA can identify unsafe carriers, prioritize them for intervention, and monitor if a motor carrier's safety and compliance problem is improving.

The SMS is not a Safety Fitness Determination nor is it a safety rating pursuant to 49 CFR Part 385; also, it does not represent FMCSA's final determination about the safety of the carrier. Use of the SMS for purposes other than those identified above may produce unintended results and inaccurate conclusions.

When the information is misused in court to accelerate the claims cost, this is relayed to underwriters and becomes a part of the acceptance and pricing of insurance particularly for smaller motor carriers.

I support the effort to use the information from FMCSA to focus on motor carriers who need to change their behavior to reduce the chance for a crash but to also limit the misuse of the information.

Yours very truly,