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Turner and Hamrick, LLC is an Independent Insurance Agency serving Alabama and the southeastern United States. Protecting you and your business is our only focus. Enjoy the expertise, commitment, and professionalism that assures you will not only receive the best premiums, but also the finest service throughout your policy year.

A New 'Tax' on Carriers

On Oct. 1, an estimated 150,000 motor carriers currently engaging in unlicensed brokerage will find themselves subject to what amounts to an enormous new tax, courtesy of the latest transportation funding law - Moving Ahead for Progress in the 21st Century, or MAP-21.

The new law's brokerage provisions appear to be aimed primarily at professionals in the field. But a closer look reveals that compliance will be even more onerous for carriers in the habit of hiring other carriers to carry loads for them - in effect, acting as unlicensed brokers.

Today, more than 300,000 motor carriers have interstate authorities to operate and about 22,000 broker licenses have been issued. A large number of those carrying broker licenses - perhaps as many as 90% - also are holders of motor carrier authorities. However, the opposite is not the case: the majority of those with motor carrier authorities are not also licensed brokers.

Most freight today - worth an estimated \$300 billion a year - is brokered not only when a shipper enters an agreement with a licensed broker but also when one authorized motor carrier "hires" another authorized motor carrier to haul cargo in its place. Many, if not most, of the motor carriers engaging in unlicensed brokerage are private carriers, snack-food makers (for example) or manufacturers of various types of goods. These private carriers rely to an extent on for-hire carriers to get their products to market.

If you are now engaged in one of these unlicensed brokering arrangements, you need to be aware that after Oct. 1, the practice will be illegal - let me repeat, ILLEGAL - and could result in a fine of \$10,000 per load, unless you become a licensed property broker and post a \$75,000 surety bond before licensing and loading occurs.

Oddly enough, despite the large number of trucking companies en-

gaged in brokering loads to other trucking concerns as a major part of their business, no huge increase in the number of carriers applying to be licensed brokers has been noted so far.

Perhaps everyone is simply waiting until the last minute, or perhaps they aren't aware that the guillotine is poised to fall. But they'd better get busy because the new highway funding law requires them to prove their qualifications before the necessary licensing and bonding can occur.

Professional property brokers already licensed will need to come up with only \$7,000 a year for a new \$75,000 bond (formerly \$10,000). But the true costs of MAP-21 to authorized motor carriers were never assessed by those crafting and passing the new law.

In my opinion, MAP-21 will cost the trucking industry \$2 billion a year.

For starters, existing motor carriers wanting to become licensed brokers must prove skill in brokering or take training to gain that skill. What's more, according to the FMCSA's website, trucking firms intending to continue hiring other motor carriers will have to start an entirely new company to be licensed in order to successfully divorce themselves from their carrier liability by "arranging" transportation.

To do this, the newly minted brokering firm must completely separate its brokering payroll from its trucking side - not only by procuring a separate federal employer ID number but, in fact, getting separate everything. - address, phone number, e-mail, website, you name it. So here's the math: 150,000 newly licensed brokers times \$7,000 annual cost for the larger bond, plus another \$7,000 in start up costs for the new company equals \$2 billion dollars and change - a whole lot of change.

If you are thinking of hiring an agent as an escape from all this - don't. One or both of you still

must be licensed as a broker to go ahead with working with another carrier.

There is pretty much universal agreement that regulation is an expensive business in general, but MAP-21's costs to the average motor carrier that hires another are a sleeper tax that requires every broker to "reapply" every five years to continue in business.

Ironically, the costs of enforcing the new law will be enormous for the government as well. But the relief for the government is to seize trucks - both the load and the equipment - until the fines are paid. And the really scary part is that FMCSA probably will turn its enforcement over to state-operated scale houses - in effect, 50 other taxing bodies.

As a former trucking company owner, I never would have supported legislation causing the loss of my sacred right to achieve my dispatch using any method I could attain without having a license.

But today, for many truckers to continue doing business as usual, the only recourse is to become licensed brokers. We now know the price for ridding the world of double brokers and crooks was truckers' virtual enslavement to a brokering license.

It is true that you have to be an authorized motor carrier to double-broker a load - i.e., the carrier tells the broker he will haul the freight, presents authority and insurance and then brokers the load again. So the largest wrong to be righted by this new law was among the truckers themselves and involved very few brokers as the victims of the pernicious double - brokering practice. That perhaps is the reasoning behind its passage.

But I'm still puzzled by the apparent inactivity of those most influenced by the new law.

Transport Topics: March 18, 2013
By David Dwinell, Owner
Load Training.com

Driver Guidelines and Hiring Practices. . .

Trucking company owners are often requesting for driver exceptions to be made for drivers that might be just outside guidelines; one excessive speed, one following too close, or a reckless driving ticket. The often request is, "well, he just has this one ticket, it's over a year old and the police officer really shouldn't have given the driver the ticket. Why can't we add him?" Keep this in mind, most all insurance companies WILL NOT tell you who to hire and who not to hire. They merely give you recommended guidelines and expect you to hire within these guidelines. Further and even more important, they expect their insured trucking company to have THEIR OWN guidelines and to stick to them. During the insurance marketing process, every insurance company asks, "what are the truckers guidelines and procedures for hiring drivers".

Many trucking companies just want an answer, "YES" or "NO". Well the decision is inevitably up to the man hiring. The reason for this is that SEVERAL insurance companies have been sued for MillionS of dollars OVER the truckers CSL \$1,000,000 limits due to the insurance company acting as HR for the trucker. For example; a trucking company sends in prospect that has just one major violation and says, "I have got to have him, I've known him for ever, and its just one ticket" so the insurance company, wanting to keep there client happy, says ok "approved". Several months later this driver gets in a serious crash injuring or killing someone. The first thing the Plaintiff 's lawyer does is to pull the guys MVR and finds the serious violation. Next he ask the Trucking Company owner for their guidelines and asks, "why was this driver hired". The trucker says, "we don't have guidelines. We hire who the insurance company says we can hire and they said it was ok". You get where this is going.....low and behold, the driver hired is even outside the insurance companies recommended guidelines so the Plaintiff decides that the Insurance Company is also responsible for this accident because this driver never should have been approved. Result: tucker's Million - Gone, Insurance Company MillionS - Gone. I have heard of one instance where the insurance company got a 10 million dollar verdict levied against them and have heard of several more with verdicts ranging from 2-5 million. And, this is all something that insurance companies don't insure for.

Currently most insurance companies do not like to be involved in the hiring process. They merely give recommended guidelines but expect the trucker to have their own guidelines and to stick to them.

No matter how large or small a carrier you may be. Type out some guidelines and stick with them. Even if you simply, take the recommended guidelines and make them your own. Also, most important, make sure you STICK TO THEM! When you have your own guidelines and deviate from them you are putting your company at risk of negligent hiring which could cause serious repercussions.

Workers Compensation - 1099 vs Owner-Operators

Workers Compensation laws, rules, regulations, and penalties vary by state, however, it is very important that companies stay compliant and know who all to cover especially when ownere operatorsor and/or 1099 drivers are in the picture.

When a state's Workers' Compensation Division (WCD) discovers you should have coverage but don't, it sends an order to you, stating the period of noncompliance and, in many instances, assessing a fine. In some states, fines range as high as two times the amount of premium you should have paid for insurance.

In Alabama a company is required to have workers compenstation if the company has more than four employees. Many carriers are aware of this, however may not be aware that the DOT considers a 1099 driver, that is driving company equipment, an employee. Many companies pay workers by 1099, call them contract labor, and think they are safe. This is far from the truth. While it is legal to pay a man by 1099 to drive your equipment, it is NOT legal to treat this worker as contract labor. If a company is doing this and the WCD finds out they will require the employer to take out a work comp policy. Further, any state fines or penalties could apply.

In some instances, the carrier will have Occupational Accident coverage on the 1099 drivers. Though this is better than having nothing, the driver is still misclassified and legally should have workers compensation. For the true owner-operator, no workers compensation coverage is legaly required, however, most Work Comp Insurance Companies require that a carrier provide OccAcc for them or have a certificate on file that the owner-operator has his own OccAcc. So, if you have both company drivers and owner-operators and you have a work comp policy you must make sure the owner-operators have OccAcc. If it is found that they do not have this coverage the Work Comp carrier will pick them up at audit and charge premium for all the owner-operators. Further, most Work Comp Insurance Companies require that the owner-operators' OccAcc include Contingent Liability coverage. All in all, it is typically easiest if the employer PROVIDE a group OccAcc policy that includes the Contingent Liability. However, all owner-operators should know that according to federal lease regulations, a carrier CANNOT require their owner-operators to buy coverage from them or from their designated agent. If the company adds an administrative or other fee onto the price of the premium, the owner-operators must be told.

The expenses that result when a worker is injured could cost you even more than the penalties. By law, a noncomplying employer is financially responsible for the same benefits insured workers receive. The law requires that a certified claims agent process the claim. You have to pay a fee for this processing in addition to claim benefit costs.

The total bill from a claim can (and often does) amount to hundreds of thousands of dollars. By law, bankruptcy can't reduce this debt. Business owners cannot hide behind a corporation or limited liability company because corporate directors and officers, limited liability company members and managers are personally and separately liable.

Exclusive remedy law suit protection doesn't apply to noncomplying employers. An employee can file suit against a noncomplying employer as well as having a legitimate workers' compensation claim.

The Turner & Hamrick Express

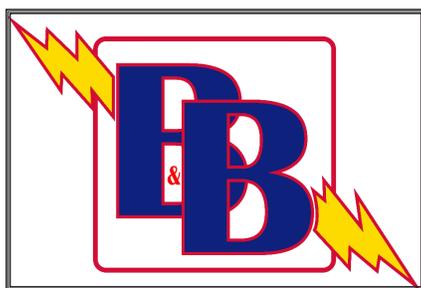
Key Employee: Whitney Sanders

Turner & Hamrick would like to congratulate Whitney Sanders on being selected as Key Employee of the quarter. Mrs. Sanders has worked at Turner & Hamrick for the past year and a half. Whitney started with Turner & Hamrick as an office assistant and has quickly moved into the position of CSR Assistant.

Mrs. Sanders is from Goshen, AL. She graduated from Goshen High School in 2010. Whitney is married to Justin Sanders. Whitney and Justin reside in Goshen and live on a 14 acre farm where they raise two horses and 8 cows. They also have 3 dogs: two chihuahuas and one blue heeler.



Turner & Hamrick thanks Mrs. Sanders for her continued hard work and dedication.



Client Spotlight: B&B Electrical and Utility Contractors, Inc

Turner & Hamrick would like to congratulate B&B Electric on being selected as the client spotlight of the quarter.

In 1982, Brien Blakeney founded B&B, which started as a small residential electrical service provider. Not long after the company's establishment, the decision was made to venture into the Commercial and Industrial markets, and also to start working with various municipalities and counties to install and maintain their ball field lighting. B&B Electrical Contractors was incorporated in 1985.

In 1994, the decision was made to explore the electrical utility industry. B&B Utility Contractors, Inc. was the product of that expansion. Incorporated in 1995, B&B Utility provides overhead and underground power distribution, lighting, design/build contracts, and traffic signalization construction. B&B also provides airfield lighting, including taxiway, runway, approach and beacon tower installations.

In 2002, B&B incorporated their sister companies, B&B Electrical and B&B Utility, into one company name, B&B Electrical & Utility Contractors, Inc. Then, beginning in June 2004, B&B expanded into yet another specialty service with the substation construction and maintenance division. B&B made an offer and was successful in acquiring a branch of seasoned substation veterans with a wealth of experience. This new division compliments the existing services the company provides and makes B&B a one stop electrical contractor.

Since B&B's inception in 1989, Brien Blakeney has strived to create a workplace environment that provides long-term employment opportunities for employees that perform at the top of the industry and within their peer groups. With that being said, Brien is proud to announce the addition of Megan Blakeney (Brien's daughter) and Austin (Brien's son) after their recent graduations from Mississippi State. "Good Luck"

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