

H-194

NATIONAL TRANSPORTATION SAFETY BOARD  
WASHINGTON, D.C.

ISSUED: March 5, 1980

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Forwarded to:

Honorable John S. Hassell, Jr.  
Deputy Administrator  
Federal Highway Administration  
Washington, D.C. 20590

SAFETY RECOMMENDATION(S)

H-80-16 through -20

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The National Transportation Safety Board has just completed a safety effectiveness evaluation <sup>1/</sup> concerning detection and control of problem commercial drivers -- drivers whose records of driver license suspensions, accidents, and traffic convictions indicate a flagrant and repeated disregard for the safety of other highway users. As a result of this evaluation, the Board found that many problem commercial drivers, in spite of their records of unsafe driving, continue to be licensed by the States and employed by motor carriers to operate the largest and heaviest vehicles on the highways.

In its evaluation, the Board conducted 41 investigations of heavy truck accidents involving suspected problem commercial drivers and reviewed the results of three previous major investigations of heavy truck accidents. The driving histories of the 44 drivers involved in the accidents were compiled by making inquiries in virtually every case to all or nearly all of the 48 contiguous States. In the majority of cases, information was obtained from the driver qualification files of the employing motor carrier, through the cooperation of the Bureau of Motor Carrier Safety. When all of this information was compiled, the composite records of the 44 commercial drivers listed a total of 63 driver licenses held, 104 traffic accidents (including the accidents under investigation), 98 driver license suspensions, and 456 traffic convictions.

In addition to its accident investigations, the Board reviewed the three levels of commercial driver screening -- the National Driver Register, State driver licensing policies, and the Federal Motor Carrier Safety Regulations. This review, combined with accident investigation data, indicates that many problem commercial drivers are able to escape detection and control because of deficiencies at each of the three levels of screening.

<sup>1/</sup> See the Board's "Safety Effectiveness Evaluation of Detection and Control of Unsafe Interstate Commercial Drivers Through the National Driver Register, State Driver Licensing Policies, and the Federal Motor Carrier Safety Regulations," NTSB-SEE-80-1, February 15, 1980.

As a result of its evaluation, the Board has identified a need for more stringent requirements in certain sections of the Federal Motor Carrier Safety Regulations which pertain to disqualification of drivers and driver record screening by motor carriers.

Section 391.15 of the regulations, "Disqualification of Drivers," disqualifies a driver whose driving privilege is withdrawn or denied by a State, or who has been convicted of one of four types of serious offenses. However, the disqualifying driving offenses are disqualifying only if the driver was operating a commercial vehicle at the time of the offense, and only if the driver was on duty. The Board is concerned that the exclusion of offenses committed while operating a noncommercial vehicle, or while operating a commercial vehicle off duty, provides a loophole which permits some unsafe commercial drivers to escape disqualification and continue operating heavy trucks or other commercial vehicles. The Board believes that the determination of driver disqualification should be based upon the driver's record without regard to the type of vehicle driven, or whether or not the driver was on duty, at the time a serious offense was committed. Drivers who cannot operate a private car or other noncommercial vehicle safely should not be allowed behind the wheel of an 80,000-pound tractor-semitrailer or other commercial vehicle.

The Board's second major concern about the disqualification provisions of the regulations is that they fail to specify a cumulative level of traffic violations which is disqualifying. Although a motor carrier is required by the regulations to determine whether or not a driver "meets minimum requirements for safe driving," the regulations do not specify what the minimum requirements are. A driver whose driving privilege is suspended by a State because of an excessive level of traffic violations is disqualified on the basis of that suspension. However, a driver having the same or a higher level of violations, who is not suspended by a State, can remain qualified, in spite of a record of unsafe driving.

The Board's evaluation shows that problem drivers often are able to escape detection and suspension by a State because of inadequate exchange of driver records among States, the driver's use of multiple licenses, and the failure of some States to give effect to convictions imposed by other States. In view of this, expecting the States to consistently detect problem drivers and suspend their driving privilege is unrealistic. Relying on motor carriers to discharge or deny employment to such drivers, in the absence of specific disqualification criteria based upon traffic records, can result in the application by motor carriers of arbitrary, nonuniform, or inadequate standards of safe driving. The Board believes that the determination of whether a driver "meets minimum requirements for safe driving" should be based upon specific, minimum criteria, such as those specified in State point systems, set forth in the Federal Motor Carrier Safety Regulations.

The Board is also concerned about Section 391.23 of the regulations, "Investigations and Inquiries." One provision of this section requires that a motor carrier investigate a driver's background by contacting the driver's former employers. However, the section does not specify the information a motor carrier is required to request about the applicant's background, beyond the name and address of the former employer. In the absence of a full definition of this requirement, there is no way to determine if a motor carrier is in full compliance with it. The Board believes that the regulations should fully define the requirements they impose on motor carriers.

Motor carrier compliance with the requirements pertaining to driver screening is of particular concern to the Board because our accident investigations included several cases in which a driver was employed by a motor carrier who had no record of the required

employment application, had not inquired into and reviewed the driver's traffic records, or had employed a driver whose driving privilege was under suspension by a State -- in direct violation of the regulations. In some cases, the employing motor carrier did not even maintain the driver qualification files required by the regulations. In view of the relatively high level of noncompliance detected in the 44 cases investigated, the Board believes that the problem of noncompliance warrants study, evaluation, and public participation in its resolution.

In addition to the failure of some motor carriers to meet regulatory requirements, the Board found two cases in which motor carriers who own and operate their own vehicles continued to operate a commercial vehicle while their driving privilege was suspended by one or more States. While most commercial drivers are subject to screening by a second party, the employing motor carrier, drivers who are owner-operators are required to screen their own driving records and comply with the requirements for drivers as well as the requirements for motor carriers. The cases of noncompliance detected in the Board's accident investigations indicate a need to evaluate the compliance of owner-operators with the self-screening requirement of the regulations, as well as the adequacy of the requirement.

In order to enable motor carriers to obtain the complete driver record information they need in screening drivers, the Board is informing the Congress that legislation should be enacted to authorize motor carrier access to the National Driver Register service through State licensing authorities. The Board is also proposing that the Register be revised as a driver records pointer system to refer inquiring States and motor carriers to the States in which a driver has a record of any traffic convictions or driver license suspensions, revocations, or denials.

Improvements in detection and control of problem commercial drivers is sorely needed. Accidents involving heavy trucks killed more than 5,000 persons in 1978 -- or about 10 percent of all highway fatalities in the United States that year. The death toll in these accidents was 48 percent higher in 1978 than it was in 1975.

We believe that improvements in the Federal Motor Carrier Safety Regulations and in other elements of the system for detecting and controlling problem commercial drivers can help to reduce the tragic death toll on our nation's highways. Therefore, the National Transportation Safety Board recommends that the Federal Highway Administration:

Revise the commercial driver disqualification provisions of the Federal Motor Carrier Safety Regulations to provide that the specified disqualifying driving offenses shall be disqualifying without regard to the type of highway vehicle driven at the time of the offense or whether the driver was on or off duty. (Class II, Priority Action) (H-80-16)

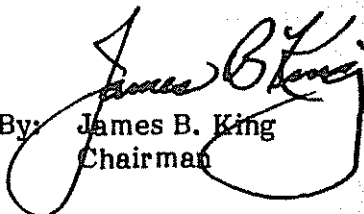
Evaluate the need for, and feasibility of, specifying in the Federal Motor Carrier Safety Regulations a threshold level of traffic violations, based upon the total number and relative seriousness of the violations, above which a driver is disqualified to operate a commercial vehicle, and within 1 year publish the findings of the evaluation in the Federal Register for public comment or initiate appropriate rulemaking. (Class II, Priority Action) (H-80-17)

Evaluate the compliance of motor carriers with the Federal Motor Carrier Safety Regulations requirements pertaining to driver disqualification, driver screening, annual review of driving records, and maintenance of driver qualification files, and within 1 year publish the findings of the evaluation in the Federal Register for public comment or initiate appropriate rulemaking. (Class II, Priority Action) (H-80-18)

Evaluate the compliance of motor carriers who are owner-operators with the driver record review and driver disqualification provisions of the Federal Motor Carrier Safety Regulations, and within 1 year publish the findings of the evaluation in the Federal Register for public comment or initiate appropriate rulemaking. (Class II, Priority Action) (H-80-19)

Define fully, in the Federal Motor Carrier Safety Regulations, the information that a motor carrier must request from an applicant driver's former employer(s) when making the investigations and inquiries required by the regulations. (Class II, Priority Action) (H-80-20)

KING, Chairman, DRIVER, Vice Chairman, McADAMS and BURSLEY, Members, concurred in these recommendations. GOLDMAN, Member, did not participate.

  
By: James B. King  
Chairman