

Increasing insurance requirements for trucking increases costs, not safety



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The Federal Motor Carrier Safety Administration has reported an increase in truck-involved crashes and fatality rates in recent years. This statistical trend has led to a call from conscientious and well-meaning safety advocates to force even more onerous requirements on motor vehicle carriers of all types. Predictably, members of the legal profession who represent those injured in crashes involving large trucks also see the potential for greater financial rewards in calling for greater insurance requirements for those carriers.

However, a closer look at the statistics reveals an increase in accidents across the board on our roadways, considering passenger vehicles. On its face that increase seems puzzling in light of the decrease in overall traffic numbers due to the COVID-19 pandemic, and the adoption of work-from-home policies that have limited office commutes and the driving patterns of many consumers. There is a certain logic to the belief that the resulting decrease in traffic led to increased speed and inattention by drivers still running the roads, and thus more accidents, particularly crashes involving fatalities.

Regardless, the statistics point to a number of categories separate and apart from the adherence to safety measures by motor carriers. The factors that contribute to these increases are multifaceted in nature both in private passenger transportation, as well as in the transportation industry governed by the FMCSA. Frankly, it is

inappropriate to look at these statistical increases and lay the sole responsibility on the trucking industry.

When examining the issues of responsibility and liability for any traffic accident, the causation is often the result of unseen circumstances, sudden emergencies or even the fault of the driver of a passenger vehicle involved. Certainly there are many cases where it is revealed that the responsibility for the accident belongs with the plaintiff who has brought the lawsuit against the truck owner.

But those gray areas seem to mean little to the black-and-white view that places responsibility for every collision on a fleet owner or independent owner-operator.

There are certainly carriers in the trucking industry that operate beyond the bounds of safety regulations, coupled with those that do not maintain adequate insurance. Yet the vast majority of all carriers have more than sufficient insurance across the board to lawfully and ethically deal with any type of motor vehicle accident that might arise. Whether looking at the transportation industry or any other business segment in which insurance plays a role, one can always make the argument that more insurance is always better.

But that's not always the case.

The argument that increased insurance premiums are the most effective way to incentivize trucking companies toward safety and encourage an even greater adherence to regulations is simply not true. The trucking industry is more regulated, and safer, with more rules and more safety protocols than at any time during the entire history of the business. We've seen the use of all kinds of devices, most every type of training you can imagine, and other mechanisms to protect drivers and assure the safe operation of their rigs.

Unfortunately, all that an increase in insurance premiums will do is incentivize plaintiffs to bring more lawsuits against trucking companies and provide a financial threshold for attorneys to further elevate their claims for damages. Said another way, more insurance does not equate with safety; more insurance creates larger demands for financial damages in litigation.

The transportation industry by and large does put safety first. But that does not mean that every commercial driver -- or the drivers of passenger vehicles -- will operate without any accidents or injuries. There are signs up and down the highway advising the operators of every kind of vehicle to watch their speed, don't text on their phones, be mindful of work zones up ahead and so much more. Yet we still have motor vehicle accidents, still caused by some combination of emergency situations, excessive speed, inattention, ignorance, impatience, intoxication and the emotions of at least one driver.

Those factors are not exclusive to commercial operators and carriers. But unfortunately it seems that every accident that involves a transportation company results in a lawsuit, regardless of the actual facts or fault. There are a number of cases in the transportation world that would never be brought if it weren't for the fact that the defendant in the case is a transportation carrier with an adequate amount of insurance to pursue.

It is not an increase in insurance requirements that will improve safety, decrease accidents or lead to fewer lawsuits against motor vehicle carriers. It seems the transportation industry doesn't get the credit it deserves for the huge strides made in protocols and practices that protect everyone on the road.

The sad fact remains that the industry will continue to face the challenges of being preyed upon, because drivers and owners carry adequate insurance to make a legal claim worthwhile. As leaders and advocates for the industry, we must be prepared to push back

against any attempts by plaintiffs' attorneys or others to simplistically position the road to improved safety as paved with more money.