

## **Avoiding DOT Fines for Non-Compliance**

A business that operates commercial motor vehicles with CDL-licensed employees should have a good understanding of the federal laws regulating these vehicles and drivers. If you're unsure if your business falls under federal Department of Transportation (DOT) or Federal Motor Carrier Safety Administration regulations, please refer to the last section of this article.

### **Compliance Checklist**

Safety is the primary goal of the regulations, and to ensure that employers maintain the highest level of safety, the DOT performs routine employer audits. The auditor's 3 ½ page form includes a variety of compliance checks that cover elements of the entire FMCSR code.

#### ***Check your compliance by answering a few of these questions:***

- Is someone at a management level familiar with applicable federal/state DOT regulations?
- Do you partake in a DOT-compliant drug and alcohol testing program?
- Do you have a written policy regarding controlled substance use and alcohol abuse?
- Are your employees and supervisors trained regarding controlled substance use and alcohol abuse and your company policy?
- Do you perform random testing at the required annual rates of 50% for drugs and 10% for alcohol?
- Can you define "recordable accident"?
- Do you have an established system to ensure drivers' medical certificates remain current?
- Can you produce completed driver qualification files on all drivers?
- Do you perform DOT-compliant background checks on all drivers?
- Can you produce the prior 6 months' records of duty status/timecards on all drivers?
- Can you provide maintenance records for vehicles in your control for 30 consecutive days or more (both leased and owned vehicles)?
- Can you provide the prior 3 months' vehicle inspection reports on all vehicles?
- Are your drivers trained to perform pre-trip inspections?
- Can explain placarding requirements?

This list represents only a small part of a complete DOT audit. If you're uncertain about any of the items above, it makes good sense to take some initiative to guarantee your company is fully compliant. Several online resources are available to assist employers with DOT compliance, including the FMCSA's website (<http://www.fmcsa.dot.gov/>) and the DOT's Office of Drug & Alcohol Policy & Compliance (<http://www.dot.gov/ost/dapc/>).

Non-compliance with DOT regulations is a safety hazard, but it's also quite costly. Fines are assessed on a per-instance basis. For example, employers who haven't performed background checks on employees will be penalized for each employee. If the average fine for this compliance issue is \$3,000, an employer with 10 drivers can quickly rack up \$30,000 in fines.

Fines vary on a case-by-case basis. Here are some actual penalties paid by employers in 2010:

- \$1,490 Using a driver who is not medically examined and certified
- \$1,780 Failing to conduct post accident drug or alcohol testing on a driver
- \$2,730 Failing to implement a drug and alcohol testing program
- \$2,760 Using a driver before receiving a pre-employment drug test result
- \$3,190 Using a physically unqualified driver
- \$3,776 Failing to check driver's employment background
- \$6,664 Using a driver who has tested positive for a controlled substance

The Code of Federal Regulations for motor carriers lists penalties for a wide range of violations. For example, "An employer who is convicted of a violation of an out-of-service order shall be subject to a civil penalty of not less than \$2,750 nor more than \$25,000" and "An employer may be fined \$1000 a day up to \$10,000 total for not maintaining accurate drug and alcohol testing records. Failure to place a driver out of service for 24 hrs for alcohol prohibition is \$3,750 per violation."

The benefit of DOT compliance is twofold: Safer drivers and equipment, and reduced expenses for non-compliance. Ensuring your company's compliance isn't just a legal issue – it's a good business strategy.

### **Is My Business Subject to DOT Regulations?**

Drivers are required to obtain and hold a CDL if they operate in interstate, intrastate, or foreign commerce if they drive a vehicle that meets any of the classifications of a commercial motor vehicle (CMV) described below.

#### **CDL License Classes:**

- Class A -- Any combination of vehicles with a GCWR of 26,001 or more pounds provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds.
- Class B -- Any single vehicle with a GVWR of 26,001 or more pounds, or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR.
- Class C -- Any single vehicle, or combination of vehicles, that does not meet the definition of Class A or Class B, but is either designed to transport 16 or more passengers, including the driver, or is transporting hazardous material