



Oregon

Theodore R. Kulongoski, Governor

Department of Transportation
Motor Carrier Transportation Division
550 Capitol Street NE
Salem, OR 97301-2530

DATE: January 18, 2007

TO: Senate Business, Transportation and Workforce Development
Committee

FROM: Gregg Dal Ponte, Administrator,
Motor Carrier Transportation Division

SUBJECT: SB 221 – Motor Carrier Safety

FILE CODE:

INTRODUCTION

SB 221 revises Oregon statutes to clarify that Oregon law does not exempt motor carriers operating in interstate or foreign commerce from federal motor carrier safety regulations. With this change, Oregon avoids the risk of losing \$4.6 million in federal grant funds each biennium. No new programs are created or replaced with this legislative change.

BACKGROUND

Oregon law contains many exemptions from motor carrier safety. For example, there are exemptions for vehicles owned or operated by certain nonprofit operations, charitable organizations, farmers, and mass transit districts. But state law can only exempt vehicles or industries operating in intrastate commerce (i.e., within state). Federal safety regulations must govern vehicles operating in interstate commerce.

If state laws are so broadly worded and interpreted as to exempt vehicles operating in both interstate and intrastate commerce, the U.S. DOT's Federal Motor Carrier Safety Administration can withhold federal grant funds from the state. This includes the approximately \$4.6 million in Motor Carrier Safety Assistance Program funds that Oregon receives each biennium.

The Oregon Legislature addressed this issue in 2003 when it passed legislation to clarify that certain motor carrier operations, most notably farm operations, are not exempt from federal safety requirements when operating in interstate commerce. But that legislation left broad wording in exemption statutes that could again be subject to concerns about their interpretation.

WHAT THE BILL DOES

SB 221 establishes that nothing in Oregon law exempts a person from federal motor carrier safety regulations when operating in interstate or foreign commerce. It adds that statement to the statute governing application of the chapter to interstate and foreign commerce. It then adds reference to each of the five statutes that list exemptions.

This bill takes a proactive approach in that it addresses potential concerns about the broad wording and interpretation of state exemptions. After a Federal Motor Carrier Safety Administration audit in 2000 identified problems with state statutes, the 2003 Oregon Legislative Session passed legislation to clarify certain exemptions. It's possible, however, that another federal audit could again identify problems.

SUMMARY

SB 221 establishes that state exemptions do not apply to interstate commerce. This brings Oregon law into compliance with federal guidelines for states receiving grant funds for safety enforcement work.

The changes to exemptions will have little, if any, practical effect on truck safety enforcement. Oregon inspectors and enforcement officers follow a performance-based enforcement plan that focuses on causes of truck-at-fault crashes. They particularly look for truck drivers with critical safety violations because there is a statistical correlation between violations and truck-at-fault crashes. As more drivers are placed out of service for critical violations, truck crashes decline.



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

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January 12, 2007

Gregg Dai Ponte
Division Administrator
Motor Carrier Transportation Division
Oregon Department of Transportation
550 Capitol Street NE
Salem, Oregon 97301-2530

Dear Gregg:

Subject: Senate Bill 221

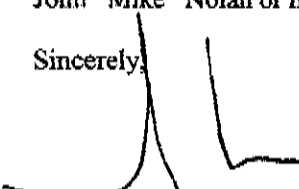
As part of a State's initial and continued participation in the Motor Carrier Safety Assistance Program, our agency provides specific variances that intrastate laws and regulations must meet (49 CFR §350.339). We appreciate your previous work, and that of Oregon legislators who in 2003 passed House Bill 2217, which addressed several major conflicts identified in a March 2000 Federal audit of state regulatory exemptions.

Per our discussions last year, however, we agreed that certain provisions in Oregon Revised Statutes could still be construed to conflict with Federal laws and regulations, as the statutes list exemptions that are not limited to intrastate commerce. As written, the statutes appear to apply to all operators of commercial motor vehicles, which meet the conditions of these exemptions, regardless if the carrier is involved in intrastate or interstate commerce. This would make the statutes incompatible with Federal regulation, as defined in 49 CFR §350.333 and §350.335.

I am writing to confirm that Senate Bill 221, which may be considered by the 2007 Oregon Legislature, provides a resolution to the concerns we have regarding ORS Chapter 825. The proposed amendment to ORS 825.030 is simple but comprehensive in stating, "Nothing in this chapter exempts a person from the Federal Motor Carrier Safety Regulations when operating in interstate or foreign commerce." Adding a reference, to the amended ORS 825.030 in each of the exemption statutes – ORS 825.015, 825.017, 825.020, 825.024, and 825.026, then removes all doubt regarding the applicability of these exemptions to intrastate commerce only. In hindsight, we should have encouraged you to seek these same amendments as part of House Bill 2217 in 2003.

If you have any questions or need further assistance in the upcoming legislative session, please contact John "Mike" Nolan or me at (503) 399-5775.

Sincerely,


Andrew E. Ego
Division Administrator