

Gutierrez, Avelino A., PRC

From: Robert Pitcher [rpitcher@trucking.org]
Sent: Saturday, July 12, 2014 3:27 PM
To: Gutierrez, Avelino A., PRC
Subject: TX submission

Avelino: If you haven't already gotten it, you'll soon be receiving a letter by email from John Esparza of the Texas Trucking Assn, with a request that the UCRA Board take up the issue I've spoken to you about.

RCP

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Gutierrez, Avelino A., PRC

From: Ann Quass [Ann@texastrucking.com]
Sent: Monday, July 14, 2014 3:19 PM
To: Gutierrez, Avelino A., PRC; rpitcher@trucking.org
Cc: John Esparza
Subject: UCR_TxDMV regulation 43 TAC section 218 (d)(1)(b)
Attachments: UCR_TX Reg 43 letter 7-14-14.pdf

Dear Mr. Chairman and Mr. Vice Chairman:

On behalf of the trucking industry of the state of Texas, I am requesting the Board of Directors of the Unified Carrier Registration Agreement (UCRA) to investigate and rule on the validity under the terms of the Unified Carrier Registration Act (the Act), codified at 49 U.S. Code section 14506, of the enforcement by the Texas Department of Motor Vehicles (TxDMV) of Texas regulation 43 TAC section 218 13(d)(1)(B).

I am the president of the Texas Trucking Association, a trade association that is headquartered in Austin, Texas. Our membership consists of more than 1100 members representing every type and class of intrastate motor carrier doing business in the state.

The administrative provision identified above (hereafter referred to as section 13(d)(1)(B)) is found in the transportation title of the Texas Administrative Code. It requires motor carriers holding Texas intrastate operating authority to obtain from TxDMV an insurance cab card that lists all the carrier's vehicles operated in Texas under its authority. The regulation also requires the carrier to keep a copy of the cab card in each of those vehicles while it operates in Texas, and to provide it to law enforcement when requested.

Recently, TxDMV has taken the position that the cab card requirement of section 13(d)(1)(B) applies to motor carriers, which both hold intrastate Texas operating authority and are interstate carriers under the jurisdictions of the U.S. Department of Transportation. This appears to the Texas trucking industry as a clear violation of the Act, specifically section 14506(a), which reads:

Sec. 14506. Identification of vehicles

(a) Restriction on Requirements. – No State ... may enact or enforce any law, rule, regulation, statute, or other provision having the force and effect of law that requires a motor carrier, motor private carrier, freight forwarder, or leasing company to display any form of identification on or in a commercial motor vehicle....

As a side note, there are certain exceptions to this prohibition that do not appear to be relevant here.

We recognize the continuing right of TxDMV to enforce the requirements of section 13(d)(1)(B) against motor carriers who do not hold interstate operating authority, but we ask the Board to provide guidance on the validity of the regulation as applied to interstate carriers and their vehicles operating in Texas.

Regards,



John D. Esparza
President & CEO

Cc: Major Chris Nordloh, TxDPs
Whitney Brewster, Executive Director, TxDMV
Johnny H. Walker, President, J.H. Walker Trucking, Inc.

Attachment



700 E. 11th Street • Austin, TX 78701

Ph: 512.478.2541 • Fax: 512.474.6494 • www.texasrucking.com

July 10, 2014

Avelino Gutierrez
NM Public Regulation Commission
1120 Paseo De Peralta; PERA Building
PO Box 1269
Santa Fe, NM 87504

Mr. Bob Pitcher
American Trucking Associations
950 North Glebe Road
Suite 210
Arlington, VA 22203

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Regards,

A handwritten signature in black ink, appearing to read "John D. Esparza", written over a horizontal line.

John D. Esparza
President & CEO

Cc: Major Chris Nordloh, TxDPS
Whitney Brewster, Executive Director, TxDMV
Johnny H. Walker, President, J.H. Walker Trucking, Inc.