

## **TRUCKING COMPANIES FACE JAIL TIME FOR HOURS OF SERVICE VIOLATIONS**

There are consequences for failing to follow DOT safety-regulation requirements. The consequences include fines, prohibition of carrying hazardous materials, and even shutting down the business. Many employers do not realize that although rare, some violations can even result in prison sentences. In 2004, owners of a small New Jersey trucking company were charged with 17 counts of DOT violations. Each count carries a maximum penalty of five years in prison and a fine of up to \$250,000. It's important to understand it is not just the most flagrant violations for large employers that can result in jail sentences, the key individuals of small employers are at risk of going to jail as well.

**VIOLATION OF DOT REGULATIONS CAN RESULT IN PRISON SENTENCES** - Violations of DOT regulations range from "unknowing technical violations" on the low end, to "broad patterns of falsification" on the high end. We do not want to overemphasize the risk. Criminal penalties are rare and are generally applied only to the most severe situations. Furthermore, to go to prison individuals must be convicted in a court of law.

**WHEN DOES A VIOLATION BECOME CRIMINAL?** Only the DOT as ascertain when a violation goes from a civil to a criminal penalty. It does seem, however, that there is a point where a violation crosses the line. The U.S. Attorney said of this case, "*These defendants put self-interest ahead of the safety and well-being of the driving public who have the right to expect that truck drivers are well rested, sober and operating their vehicles within the law.*" All defendants are considered innocent until proven guilty in a court of law.

**THE NJ SITUATION** - The name of the company and the names of the individuals have been published by the DOT. Because of the severity of the violations and risk to public safety that their actions posed, they face up to five years in prison and \$250,000 for each of the 17 violations they are charged.

**ABOUT THE INDICTMENT** The Office of Inspector General for the DOT published a summary of the 17 count indictment which includes three defendants charged with conspiring to make and file false daily driver log books among other charges.

**CONSPIRING TO FALSIFY LOG BOOKS** Count one of the indictment charges all three defendants with conspiracy to make, use and cover up false daily driver logs. This indictment alleges that the defendants encouraged and assisted drivers in filling out logs falsely indicating that the drivers were in compliance with the hours of service requirements. Counts two through ten charges one of the defendants in particular with making false statements in the daily driver log books. Counts 11-16 charge another defendant, who is also a driver, with making a false entry in his log book that indicated he was off-duty resting when in fact he was driving.

**WILLFULLY CONCEALING AND COVERING UP A POSITIVE DRUG TEST RESULT** Finally, count 17 charges one of the defendants with willfully concealing and covering up a positive drug test result for one of the company's drivers.

**THE DOT IS COMMITTED TO ENFORCING COMPLIANCE** There's no question that the DOT is committed to safety and committed to enforcing compliance with the Federal regulations.

**THE AVERAGE MONETARY FINE** - While this case may be extreme, the average fine for a motor carrier is still very significant. Specifically, based on totals reported by the Federal Motor Carrier Safety Administration on January 15, 2003 the average fine per employer was \$13,740. While in many cases a motor carrier may need to invest time and money into compliance, the cost of non-compliance is far greater.

**OTHER OCCURANCES** - This is just one example of what happened to a New Jersey Trucking Company. I know personally a company in MD that suffered a similar occurrence as well as several other companies under indictment. No distinction is made between small or large size companies nor is there a distinction made between intrastate and interstate carriers.

**DRIVERS CONVICTED and SERVE TIME** - Truck Driver Pleads Guilty to HOS Violations; Another Fined \$10,000. A CT driver and a TX driver who were involved in a wreck serve jail time. Drivers who continue to operate in disregard to the HOS or operate mechanically faulty equipment are being found guilty of vehicular manslaughter and other related charges which result in time in prison.

**SUMMARY** - Anyone can be found guilty if you do not remain in strict compliance with Local, State and Federal Regulations. Protect yourself from fines and jail time; contact the DOT Doctor today!