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Know the Limits of Liability Insurance

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By Glen M. Darbyshire

Special to *Business in Savannah*

Trucks are essential to America's freight transportation, moving the vast majority of goods and produce from factory and farm to warehouses, to retailers, and to offices and homes. Our national economy depends on trucks to deliver 10 billion tons of freight every year, which is 70 percent of all domestic freight. There are more than one million registered motor carriers, including large private fleets and individual owner-operators. If trucks stop, America stops.

Given this massive volume of freight hauling, and the fact that nearly all of this freight is transported without accident, it is remarkable that heavy truck operators are so quickly and unconditionally criticized when the topic is highway safety. Of course, the most tragic trucking accidents generate the most publicity, and at times the criticism is well-founded. For the victims in these accidents, unfortunately, the effects of the accidents cannot be reversed, and their losses are compensated only through our court system and provisions for liability insurance.

In 1935, the federal government first set regulations for interstate motor carriers that require “security for the protection of the public.” For most carriers, this security is provided through the purchase of insurance to cover highway accidents. In 1985, the required minimum coverage amount for this insurance was set at $750,000 for a typical tractor-trailer operator. Some of the larger trucking companies buy more, but nearly 70 percent of trucks on the road today are covered by $1 million or less in liability insurance.

Remarkably, the required minimum “security” has not been increased since 1985. Meanwhile, the costs of medical care nationwide, including for those injured in motor vehicle accidents, have gone up more than 400 percent. If the “security” requirements had kept up with inflation in medical costs, truckers today would be required to have at least $3 million in insurance coverage per accident. This would impose a major annual cost on the majority of truckers and would put some of them out of business unless the amounts charged to move the nation's freight were also increased. And that would lead to increases in the cost of the transported goods and produce at each stage in the supply chain. Simply put, the price of groceries would go up.

With increasing frequency, trucking accidents are generating headlines that suggest lawyers and juries are valuing claims against truckers at historically high numbers. It is fair to debate whether these awards and settlements have been excessive, but there can be no dispute that they have exceeded the minimum insurance coverage that most trucking companies carry. The result is highway roulette. Some crash victims are able to collect to the full extent of their injuries, while others are not, depending on how much insurance has been purchased by the trucking company and whether that company has any additional assets of value. It is rare luck when the (unlucky) crash victim is injured by a truck that has more than the minimum required insurance.

The bottom line is that, in major trucking accidents where the truck driver is at fault, the government's failure to increase the minimum security requirement has shifted much of the costs of those accidents from the trucking company and its insurer to those who have the misfortune of being injured, while the rest of us pay less for the goods and produce we consume. Recent changes in national health care programs (under the Affordable Care Act) may pick up some of the medical costs not covered by trucking insurance, but this, too, is a shift away from making the trucking company incur the cost directly through having to purchase additional insurance coverage before the accident.

Raising the minimum insurance requirement would reduce the exporting of accident costs onto crash victims and taxpayers at large, and it would remove the marginally capitalized (and potentially unsafe) carriers from the industry. The increased cost of insurance would also incentivize the remaining carriers to improve driver safety and thereby likely reduce the number of crashes industry-wide. The image of truckers would improve to fit the reality that the vast majority of them are exceptionally safe operators.
The Federal Motor Carrier Safety Administration has been considering a proposal to increase the minimum insurance requirements for over a year, and several thousand comments have been submitted to the agency for and against this initiative. The outcome of this pending rulemaking is impossible to predict.

In the meantime, for the responsible trucking company, serious consideration should be given to reviewing insurance coverages and purchasing more than the minimum required. As headlines report larger jury awards and settlements, the minimum requirements are becoming even more glaringly inadequate to protect not only the motoring public but also the trucking company itself, its investment in equipment, and in the families of its truck drivers who depend on the success of that company. Reviewing insurance policies with experienced insurance agents and trusted legal counsel, and adjusting coverages as needed, will serve to protect both the business and the public at large.

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Practice Areas

- Transportation & Logistics
- Commercial Litigation
- Personal Injury
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