



# REG **REVIEW**<sup>SM</sup>

July 2019

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## **Crash Fatalities Involving Large Trucks Rise Again**

Fatalities from crashes involving at least one large truck are expected to rise about 3 percent in 2018, according to data from the National Highway Traffic Safety Administration (NHTSA).

Preliminary reports indicated that while traffic fatalities for 2018 are projected to be down about 1 percent from 2017, the fatality rate for crashes involving at least one large truck are projected to rise 3 percent.

The upward trend in truck fatalities is a continuation from the 2017 Fatality Analysis Reporting System (FARS) information that showed a 9 percent increase in deaths involving at least one large truck. A large truck as defined in the FARS report is a medium or heavy truck, excluding buses and motor homes, with a gross vehicle weight rating of more than 10,000 pounds.

A total of 37,133 people died as a result of traffic fatalities in 2017. That number is projected at 36,750 for 2018. Updated fatality counts will be revised later this year when the final file for 2017 and the annual reporting file for 2018 become available.

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## **Brake Safety Week Set for September 15-21**

Brake Safety Week will be held September 15-21, 2019, with an emphasis on brake hoses and tubes, the Commercial Vehicle Safety Alliance (CVSA) announced.

The annual event is held across North America as part of standard roadside safety inspections conducted by enforcement officials. By highlighting hoses and tubing components, CVSA hopes to remind motor carriers and drivers of their importance to vehicle mechanical fitness and safety.

Checking brake systems is a mandatory part of the CVSA inspection program. When inspecting hoses and tubes, inspectors will check that the components are properly attached, undamaged, without leaks, and flexible.

Out-of-adjustment brakes and brake-system violations accounted for 45 percent of all out-of-service vehicle violations issued during last year's International Roadcheck enforcement campaign, CVSA said.

The Federal Motor Carrier Safety Administration's (FMCSA) 2018 Pocket Guide to Large Truck and Bus Statistics said brake-related violations accounted for six of the top 20 most frequently cited vehicle violations in 2017.

Brake Safety Week is part of the Operation Airbrake Program, sponsored by CVSA in partnership with FMCSA and the Canadian Council of Motor Transport Administrators.

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## **Proposed House Bill Would Raise Fuel Tax Before Eliminating It**

A bill was introduced in the House of Representatives that would raise the federal fuel tax before eventually eliminating it and replacing it with another funding source.

Congressman Earl Blumenauer of Oregon introduced HB2864, the Rebuild America Act of 2019, on May 22. The proposed rule would incrementally increase the federal gasoline and diesel taxes by five cents a year over five years, indexing the taxes to inflation, before repealing the taxes with the intention of replacing them with a more stable source of funding by 2029.

The gas tax was last raised more than 25 years ago in 1993 and currently stands at 18.3 cents per gallon. Under the new legislation, it would reach 23.3 cents in 2021 before peaking at 43.3 cents per gallon in 2023. Diesel fuel is currently taxed at 24.3 cents per gallon and would rise to 49.3 cents per gallon by 2023. "We are paying for our 2019 infrastructure needs with 1993 dollars," Blumenauer said. "That is unacceptable."

According to a release from Blumenauer's office, surface transportation faces a large shortfall of funds. The American Society of Civil Engineers estimates that more than \$1.1 trillion of investment by 2025 is necessary for upgrades. A date for a vote on the bill was not announced.

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## **NIOSH Releases Updated Version of Aerial Lift Simulator**

The National Institute for Occupational Safety and Health (NIOSH) recently released an updated version of its Aerial Lift Hazard Recognition Simulator. In addition to a scissor lift scenario, the updated simulator now includes a boom lift scenario.

NIOSH says the simulator features realistic workplaces with multiple types of hazards that scissor and boom lift operators can navigate from the safety of a computer. Experienced operators can use the simulator to refresh their knowledge, and new operators can familiarize themselves with hazards they may encounter on the job. NIOSH notes, however, that using the simulator is not a substitute for required training to operate aerial and boom lifts.

According to NIOSH, between 2011-2014, over 1,300 workers were injured, and 87 workers died as a result of operating an aerial lift or scissor lift.

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## **OSHA Resources Offer Solutions to Common Safety Hazards**

OSHA has issued a new series of OSHA Alerts that address safety hazards associated with specific activities, equipment, or events. Each alert identifies the hazards involved and offers solutions to keep workers safe. Alerts currently available focus on flood recovery and cleanup, trenching and excavation, and forklift operation.

OSHA also has issued a new flyer on five things workers should know to stay safe in a trench. The flyer addresses the most common trench-related hazards. The Agency also has additional resources for employers and workers on trenching safety, including a short video.

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## **OSHA, National Weather Service to Mark National Heat Awareness Day**

OSHA and the National Weather Service are teaming up on to encourage employers and workers to recognize the warning signs for heat illness and to keep workers safe. Every year, dozens of workers die and thousands more become ill while working in extreme heat or humid conditions. OSHA notes that while 40 percent of heat-related deaths occur in the construction industry, workers in every field are susceptible.

OSHA recommends employers with workers exposed to high temperatures:

- Provide workers with water, rest, and shade.
- Allow new or returning workers to gradually increase workloads and take more frequent breaks as they acclimatize, or build a tolerance for working in the heat.
- Plan for emergencies and train workers on prevention.
- Monitor workers for signs of illness.
- For workers, OSHA and the National Weather Service offer the following tips:
  - Drink plenty of water even if you don't feel thirsty.
  - Take breaks in the shade as often as possible.
  - Wear a hat and light-colored clothing.
  - Learn the signs of heat illness and what to do in an emergency.
  - Keep an eye on fellow workers.

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## **SSP comments on PAW Act, Workplace Violence Legislation**

The American Society of Safety Professionals (ASSP) recently submitted comments supporting two legislative proposals relating to workplace safety.

The organization submitted a letter to House of Representatives sponsors of H.R. 1309 and S. 851, legislation intended to help protect workers in the healthcare and social service sectors from the threat of workplace violence. The legislation would mandate OSHA develop a standard requiring employers to

implement a comprehensive workplace violence prevention plan.

ASSP notes that a Government Accountability Office (GAO) study showed rates of violence against healthcare workers can be 12 times higher than rates for the overall workforce, and that 70 percent of nonfatal workplace assaults occurred in the healthcare and social assistance sectors.

ASSP also submitted a statement to several members of the House in support of the Protecting America's Workers (PAW) Act. The Act would expand federal OSHA coverage to public sector workers, enhance whistleblower protections, expand employer liability for violations under the General Duty Clause, and require OSHA to update national consensus standards, among other provisions.

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## **The Trend Continues: State Anti-harassment Laws**

When the federal government doesn't act, states often step in to help fill what they see as a void. Such is the case with specific anti-harassment laws. The federal laws and most states have laws against discrimination, and these usually include prohibitions on harassment. Some state laws, however, go beyond what the federal laws require of employers, including a requirement to train supervisors and sometimes all employees.

Some of the latest activity regarding state anti-harassment laws is as follows:

### **Nevada**

Employers may not prohibit employees from talking about sexual misconduct allegations that were settled through such venues as nondisclosure agreements. This is effective July 1, 2019 and is similar to already existing laws in California, New Jersey, and New York.

### **New York**

The bar for making complaints was lowered; no more need for severe or pervasive behavior. Employers no longer have a defense argument that an employee failed to use an internal complaint procedure. Employers are liable for acts of contractors. Nondisclosure and mandatory arbitration restrictions apply to all types of discrimination. A related notice and policy must be given to all employees at hire and at annual training. (While not yet enacted, the law is expected to be signed by the Governor.)

### **Connecticut**

All employers must provide sexual harassment training to supervisors by October 1, 2020. Employers with three or more employees must also train all employees. Corrective actions taken by employers are limited.

### **Illinois**

Employees are protected from discrimination based on actual or perceived protected class. Non-employees in the workplace are also protected. Annual training must be on all forms of discrimination/harassment. (While not yet enacted, the law is expected to be signed by the Governor.)

These are simply the latest changes in an ongoing trend that continues to see an uptick since the #MeToo movement began. If your state does not currently have such laws, it could be simply a matter of time before it does. Employers need not wait for laws to be passed to adopt some of these provisions, including the training, since such training has been shown to help prevent harassment from occurring. While the focus might have begun with sexual harassment, many states are expanding this to include all forms of discrimination. After all, harassment can be based on many different aspects.

## **Cal/OSHA Proposes Emergency Reg to Protect Workers from Wildfire Smoke**

California's Division of Occupational Safety and Health (Cal/OSHA) will hold an advisory meeting May 8 seeking input on the development of an emergency rulemaking proposal addressing worker exposure to wildfire smoke. The Agency says the impact of wildfires has worsened in recent years and that inhalation of wildfire smoke may cause serious adverse health impacts.

The proposal applies to workplaces where the Air Quality Index (AQI) for particulate matter (PM) — a mixture of solid particles and liquid droplets found in the air, such as dust, soot, or smoke — is greater than 150, regardless of the AQI for other pollutants, and a wildfire smoke advisory has been issued; or there is a realistic possibility that employees may be exposed to wildfire smoke.

Some workplaces and operations are exempt from the proposal:

- Enclosed buildings or structures where the air is filtered by a mechanical ventilation system and employee exposure to outdoor or unfiltered air is effectively limited.
- Enclosed vehicles where the air is filtered by a cabin air filter and employee exposure to outdoor or unfiltered air is effectively limited.
- The employer demonstrates that the concentration of PM<sub>2.5</sub> (fine inhalable particles) in the air does not exceed a concentration that corresponds to an AQI of 150.
- Firefighters engaged in wildland firefighting.
- Emergency response personnel performing lifesaving emergency rescue and evacuation.

Employers would be responsible for training employees on the health hazards of wildfire smoke, as well as other requirements covered in the proposal. They also would be required to employ engineering and administrative controls, and provide respiratory protective equipment if the controls did not eliminate employee exposure to PM<sub>2.5</sub> corresponding to an AQI of 150 or less.

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## **OSHA Offers Tips for Keeping Teen Workers Safe this Summer**

OSHA reminds employers hiring teen workers for the summer to keep in mind that it may be their first job or the first time they're operating equipment. The Agency offers the following tips:

- Understand and comply with the relevant federal and state child labor laws. These laws prohibit youth from working certain hours and from performing dangerous/hazardous work.
- Ensure young workers receive training to recognize hazards and are competent in safe work practices. Training should be in a language and vocabulary they can understand and should include prevention of fires, accidents, and violent situations and what to do if injured.

- Implement a mentoring or buddy system for new young workers. Have an adult or experienced young worker answer questions and help the new young worker learn the ropes of a new job.
- Encourage young workers to ask questions about tasks or procedures that are unclear or not understood.
- Be mindful of the unique aspects of communicating with young workers.
- Ensure that equipment operated by young workers is both legal and safe for them to use. Label equipment that they are not allowed to operate.

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## **NIOSH Study Looks at Drug Overdoses in the Workplace**

A new study published by the National Institute for Occupational Safety and Health (NIOSH) describes drug overdose fatalities occurring in the workplace between 2011-2016. The study found:

- Nearly half of workplace overdose deaths occurred in three industries: transportation and warehousing, construction, and healthcare and social assistance.
- One-third of workplace overdose deaths occurred in businesses with fewer than 10 employees.
- The largest category of drugs used in workplace overdose deaths were illicit drugs such as cocaine, cannabinoids, and heroin.
- Heroin was the drug most frequently associated with workplace overdose deaths.

The study notes that drug use, especially opioids, can be a personal risk factor for work-related injury as well as a consequence of workplace injury hazards. As an example, a greater number of physical hazards exist in the construction industry, which increases the risk of on-the-job injuries and chronic musculoskeletal conditions, and in turn leads to prescription opioid use for the injury and potential misuse of the drug. This may affect the employee's ability to return to work or to function safely on the job and could increase the risk for opioid use disorder or overdose death.

The study's lead author stated that better understanding both the demographics of workers and the workers and industries most affected by drug overdoses, has implications on workplace prevention programs as well as for workplace-based messages and strategies.