



Under 21 Drivers, Why is This a Good Idea?

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As many of our members may know already, TRAA has filed comments in support of a proposed pilot program by the Federal Motor Carrier Safety Administration (FMCSA) to allow commercial drivers under the age of 21 without prior military experience. Currently there is already a pilot program in place for the same age group (18-21) with prior military experience driving large commercial vehicles or their equivalents.

Perhaps you are wondering why TRAA has chosen to get involved or show support for this proposed pilot program. The answer is simple, it will *reduce an unnecessary regulatory burden on the towing industry*.

Many towing companies already employ drivers and service technicians between the ages of 18-21, meaning our industry has shown support for these professionals already. In fact, we have found that this group of towers is the second least likely to be involved in a fatal roadside incident, surpassed only by those age 60+¹.

The regulatory burden comes from the broad application of the definition of interstate commerce. For those that are not familiar, interstate commerce is defined as;

Interstate commerce means trade, traffic, or transportation in the United States—

- (1) Between a place in a State and a place outside of such State (including a place outside of the United States);
- (2) Between two places in a State through another State or a place outside of the United States; or
- (3) Between two places in a State as part of trade, traffic, or transportation originating or terminating outside the State or the United States².

This has been successfully applied to towing operations across the United States, making our operations subject to the Federal Motor Carrier Safety Regulations, including qualifications of drivers. Given that we may alternate between interstate and intrastate commerce many times each day, we as towers must qualify our drivers to the stricter (in many states) federal regulations.

A quick example of how a tower can engage in interstate commerce is by responding on the highway to tow a disabled passenger car belonging to an out-of-state family. While the disabled nature of the motor vehicle itself makes this an exempt move, relieving towers from many of the FMCSRs, it does not fully relieve the tower.

Further, and this is where many towers run afoul with the regulations, is if you were to tow this vehicle off the highway to a service center that was unable to repair it. Then had to perform a secondary tow to another service center- even within the same city or state. The secondary tow would be fully regulated

¹ (Towing Traffic Incident Reporting System (TTIRS), 2019)

² (Guidelines and Driver Qualifications for Motor Carriers of Passengers - Parts 390 & 391, 2019)

interstate commerce. This is simply because the disabled vehicle came from out-of-state and once it was removed from the primary point of disablement the exemption from FMCSA jurisdiction no longer applies.

The same concept applies to parts operations, package shipping and, of course, heavy towers that regularly tow and transport commercial vehicles engaging in interstate commerce. The definition of interstate commerce is clear in the fact that the vehicle (or driver) does not need to physically cross the state line to make the intent of the movement interstate in nature, therefore applying the federal regulations over state regulations.

In plain English what this means is that a tower can find themselves unintentionally violating federal regulations by using a driver that is under 21; even if they are only driving locally without physically leaving the state! This regulation is burdensome to many- including the towing, auto salvage, construction and package delivery industries. It requires the compliance-minded tower to either (a) hire only drivers and road service technicians over age 21 or (b) choose who can respond to each service request carefully.

I include road service technicians because many road service vehicles are greater than 10,000 lb. GVWR, which meets the federal definition of a commercial vehicle. And they often provide repair, servicing or conditioning of commercial vehicles engaged in interstate commerce. It has been argued successfully that providing service to a commercial vehicle is, in fact, engaging in the furtherance of interstate commerce. Which means the service technician would need to be qualified as an interstate driver to provide such service roadside in many instances.

In addition to the implications for companies that do not physically cross state lines, there are also implications for the many that are near state borders. Perhaps the most affected area of the country is the New England region where a driver can cross several state borders within a hundred miles or less.

This was the case when I was a young tower. I lived in northeastern Pennsylvania, less than 8 miles from both New York and New Jersey. I began towing at age 18 and could not legally take calls just across the Delaware River because they were out-of-state, yet I could tow a vehicle 300+ miles to the west.

Bottom line, TRAA chose to support allowing commercial drivers under age 21 to engage in interstate commerce for many reasons, including the economic and operation needs of our members. As for safety, we heavily weighed the safety implications of younger drivers. We believe our industry attracts a different type of individual, and as such, we believe towers can safely and effectively employ, deploy and manage younger commercial drivers.