

## Public Utilities Commission of Ohio Changes Truck Safety Regulations Affecting Private Motor Carriers

**To discuss how this decision could affect your business and how to get involved, please contact your Vorys attorney or one of the following:**

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Recent developments at the Public Utilities Commission of Ohio (PUCO) will affect businesses that operate trucks and tractor/trailers. Prior to March 2008, PUCO exercised safety jurisdiction over private motor carriers (those that haul their own property and not the property of others) that operated commercial motor vehicles with a gross vehicle weight rating ("GVWR") or a gross combination weight rating<sup>1</sup> ("GCWR") of 26,001 pounds or greater in Ohio on an intrastate basis.<sup>2</sup> These private carriers would include landscape companies, utilities, oil companies or any other business using trucks, alone or with trailers, in its business.

In March 2008, the Commission issued an Entry approving amendments to its motor carrier safety rules that expanded its safety jurisdiction over intrastate private motor carriers to include commercial vehicles with a GVWR or GCWR of between 10,001 and 26,000 pounds. In July 2010, several industry associations sought relief from the Commission. As a result, on June 9, 2010, the Commission issued a supplemental entry in Case No. 07-1095 which directed that safety violations against private carriers operating commercial motor vehicles between

10,001 and 26,000 pounds in intrastate commerce would not be assessed a civil forfeiture or monetary penalty until January 1, 2011, except in certain specified situations. Subsequently, the Commission issued an Entry in November 2010 deferring the active enforcement of these rules until January 1, 2012.

### *Concerns with the decision*

Many business interests are concerned that lowering the threshold of these rules to trucks which, alone or with trailers, weigh more than 10,001 pounds will significantly increase costs.

The Commission has recently begun a process to meet with various carrier and industry groups to discuss the new rules and answer questions. The Commission has scheduled "listening sessions" to receive input from interested parties about the operational burden and financial cost of compliance.

At the first "listening session" held on February 9, 2011, a number of businesses presented objections regarding costs associated with compliance. The next listening session is scheduled for March 1, 2011, at the

<sup>1</sup> This combination weight would include a truck and trailer.

<sup>2</sup> Private motor carriers that operated in interstate commerce (between states) were and continue to be subject to safety rules if their vehicles had a GVWR or GCWR in excess of 10,001. Similarly, for hire carriers (those who haul property of others) who operate within the State of Ohio were subject to PUCO safety jurisdiction if they operated vehicles with a GVWR or GCWR in excess of 10,001 pounds. This memorandum does not affect either interstate private carriers or for hire carriers.

Cambridge Municipal Court, Suite 1, in Cambridge.

***H.B. No. 82***

In response to the outcry from businesses opposed to this proposed change, Ohio Representatives Cheryl Grossman and Terry Boose introduced H.B. No. 82 which would exempt those motor vehicles from the Federal Code of Safety Regulations adopted by the PUCO which are operating in intrastate commerce, are operated by a private motor carrier, have a GVWR

or GCWR which does not exceed 26,001 pounds, is not designed to transport 16 or more people, and does not transport any type or amount of hazardous materials.

The effect of this bill would be to restore the status quo before the Commission acted in 2008 which would nullify the Commission's attempt to expand its safety jurisdiction. The first hearing for H.B. No. 82 took place at the House Public Utilities Committee at 10:00 AM on February 16, 2011.

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