CLIENT ALERTS & INSIGHTS

Reefer Madness and Beyond – What Happens in California Doesn't Stay in California

MAY 7, 2018

Authors: Martha J. Payne

On April 18, 2018, the California Air Resource Board (CARB) issued a press release touting $152K they are collecting to "fund air pollution research, improve children's health and install air monitors." The money comes from two out-of-state companies, Marten (Marten Transport Logistics, LLC, Marten Transport Services, LTD., and Marten Transport, LTD.) and Roadrunner Transportation System. Marten and Roadrunner were accused by CARB of failing to verify that trucks they hire for service in California were compliant with California's Truck and Bus Regulation.

According CARB, "We do everything in our power to protect Californians from high polluting vehicles and their many negative health impacts, including enforcement of our strict laws."

Most companies in the transportation industry have been aware that California has strict regulations regarding Transport Refrigeration Units (TRUs or "reefers".) However, CARB regulations apply not only to reefers, but to almost any vehicle with a manufacturer's gross vehicle weight rating (GVWR) greater than 14,000 pounds. The regulations apply to, but are not limited to, shippers, brokers, freight forwarders, and carriers.

CARB accused Marten and Roadrunner of failing to verify that each vehicle they hire or dispatch in California is in compliance with CARB regulations. The fine for failing to verify is up to $25,000 per day. Both Marten and Roadrunner entered into settlement agreements, Marten for $100,000 and Roadrunner for $52,250.

Shippers, brokers, and freight forwarders are not required to inspect equipment to ensure compliance, but must show that they conducted due diligence to ensure compliance. Due diligence might include (1) requiring motor carriers to provide evidence that they registered their reefers in the Air Resources Board Equipment Registration (ARBER) system, (2) sending letters to all carriers that operate within California, as well as to those that hire them (3PLs), spelling out requirements, and (3) strengthening contract language regarding CARB compliance.

Based on CARB's aggressive enforcement and their reach beyond California and reefers, it is time for everyone to review their procedures before California reaches out to them.

If you have any questions regarding these regulations, contact a member of Benesch's Transportation & Logistics Practice Group.

Martha J. Payne (Author) at mpayne@beneschlaw.com or 541.764.2859

John C. Gentile (Contributor) at jgentile@beneschlaw.com or 302.442.7071

Eric L. Zalud at ezalud@beneschlaw.com or 216.363.4178

Marc S. Blubaugh at mblubaugh@beneschlaw.com or 614.223.9382

Stephanie S. Penninger at spenninger@beneschlaw.com or 312.212.4981

Jonathan Todd at jtodd@beneschlaw.com or 216.363.4658