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Warmest Wishes for 2023

As the Holiday season is upon us, we find ourselves reflecting on the past year and those who have helped to shape our business. It's been quite a year for us all! We hope that 2022 has been just as memorable for you, your colleagues and your loved ones. We look forward to working with you in the years to come.

Happy Holidays from all of us at Old Republic Canada



TIPS TO PROVIDE EFFECTIVE DRIVER COACHING



Coaching and mentoring are two different approaches to improving human performance. A mentor is someone who shares their experiences and skills to help another person grow, such as mentoring a new driver as they acclimate to the company culture and operations. The mentor's role is to be more directive in their approach by providing instruction. Conversely, a coach's goal is to help a person look inward to reach their full potential. A good example of coaching is in sports. A skilled coach will observe a player's performance and pose the right questions to help the player reflect on the situation and the choices they made. This approach allows the player to then step back, reach a solution on their own, then apply it the next time they face a similar situation.

The same concept applies to driver coaching. Bringing out the best in your fleet does not require an elaborate program or great time commitment. Coaching involves asking the right questions to promote reflection, to help drivers see their performance from a different perspective (without being judgmental), and to help them reach desired performance solutions on their own. Here are several reflective questions to consider. These can be used with drivers in simple 10-15-minute interactions.

- What is a different way to look at that?
- What are your options?
- What will you do differently next time?
- What is the real challenge here for you?
- What is the ideal outcome?
- What would the benefit be if you achieved this goal?
- What else could you do?
- What are your gifts?
- How can I help?

In addition to these questions, provide positive reinforcement. Help the driver see the benefit of talking through their thinking process with you and not being judged. Remember to focus on the driver's behavior, not the person. Also, be an active listener. Do not try to talk over the driver or interrupt. In fact, pause five seconds after the driver finishes talking before speaking. This allows you time to reflect on what the driver has said. And finally, try to meet regularly and follow up with the driver to see how things you discussed are progressing. This kind of interaction can boost the driver's confidence and improve retention.

CALL TO ACTION

- **Conduct informal coaching with all drivers on a regular basis.**
- **Train driver managers on coaching techniques.**
- **Implement a driver mentoring program.**

*Submitted by:
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Safety Services Representative
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HOW DOES THE US HOURS-OF-SERVICE (HOS) EXCEPTION FOR ADVERSE CONDITIONS WORK?



According to 49 CFR Part 395.1(b)(1), the rule allows a driver to have extra time to complete their day after encountering unexpected delays caused by weather or traffic. A driver may extend both driving and on-duty limits by two (2) hours. This is a change from the old rule, which permitted drivers to extend their driving limit, not their on-duty limit. Truck drivers subject to the 14-hour limit will be most affected by the change.

So what's the benefit of the new rule? With the expanded hours, more drivers will be eligible to use the exception to wait out unexpected weather or traffic conditions, rather than trying to "race the clock" to complete the run. Drivers will have an added cushion of on-duty time when using the exception. All driving (up to 13 hours for truck drivers) will need to be done within 16 consecutive hours for truck drivers.

Note that the allowable uses of this exception remain relatively narrow. See the definition of "Adverse Driving Conditions" in §395.2. Motor carriers are obligated to make sure the adverse conditions were unknowable at the time of dispatch. Motor carriers and drivers should check traffic and weather conditions before starting a run. Motor carriers should make sure drivers are aware that they cannot use this exception for routine weather or traffic delays. The delay must be unexpected, and it cannot be due to normal rush-hour traffic, vehicle breakdowns, loading or unloading delays, or the inability to find parking.

Overall, this exception is rare to use. Motor carriers may not qualify to use the adverse driving conditions exception.

If the motor carrier feels it has received the violation incorrectly, it has the option to submit a DataQ. However, before submitting the DataQ, consider the following:

- Did the driver note the exception on the log?
- Did the driver pass other available parking locations?
- Was the motoring public warned of the incident before encountering the slowdown?

Submitted by:

Rajdeep Singh, CRM, CDS, CDT

Senior Safety Services Representative

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BEST PRACTICES

- Train operations staff on the HOS exception for adverse conditions.
- Monitor weather and traffic reports to ensure drivers are aware of adverse conditions.
- Train drivers how to enter this exception into their electronic logging devices.
- Develop an internal process for using and documenting the HOS exception for adverse conditions.

THREE STEPS TO EFFECTIVE DECISION-MAKING

Analysis paralysis is a leader's worst nightmare. Overthinking or failing to make a decision, be it right or wrong, can lead to missed opportunities, team dysfunction, decreased morale, and other negative outcomes. Leaders are expected to make decisions to keep operations moving forward. For some, this can be a scary proposition, especially for those who are in new leadership roles or battling an ingrained culture that is change averse. Fortunately, making effective decisions does not have to be a nebulous endeavor. Here is a simple three-step framework that you may find useful in decision-making.

1. SEEK DIVERSE INPUT

When immediacy is not a factor, making decisions in a vacuum or based only on the input of like-minded individuals has its risks. Going it alone or relying on input from individuals who tell you what you want to hear may result in something getting missed. Consider seeking input from others, including those outside your usual circles. Draw on their diverse views and experiences. They may help you see the forest in the trees. Likewise, try involving your subordinates in the decision-making process. They might reveal issues you were not aware of previously. Their involvement can also promote buy-in and support when your decision is announced.

2. KNOW WHEN TO DECIDE

Knowing the timetable for deciding certainly affects how much input you can seek. Sometimes, a decision must be made immediately, so a leader may have to rely on personal experience. If time allows, use it to your advantage. Do not rush to a decision when gathering input is an option. Likewise, do not put off decisions by procrastinating. Others may be waiting on you to move forward. Set a timetable for your decision and make it known so the delay does not negatively impact the actions or views of you by others.

CALL TO ACTION

- Practice asking others for input before making critical decisions.
- If time permits, practice setting a deadline for making important decisions.
- Take ownership of bad decisions and focus on solutions.
- Involve team members in finding solutions to problems.

3. BE READY TO PIVOT

Even after careful consideration, it is possible your decision may be the wrong call. Perhaps circumstances changed or a new piece of information came to light after the fact. Regardless, it is essential to take ownership of the mistake, accept it was wrong, and fix it. Humility is not a sign of weakness, but rather a show of strong character. Do not let your ego get in the way of doing the right thing. Also, be transparent about the situation. If something was missed, find out why so it doesn't happen again. Do not berate others in the process or blame them for your mistake. Focusing on the problem, not the person, and finding a solution as a team builds trust. Your employees will respect you for it, and going forward, they will have your back because they trust you will have theirs.

Submitted by:

William (Bill) Kalbhenn

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SIX STEPS TO IMPROVING TALENT RETENTION

Recruiting and hiring are constants for employers, especially those with high turnover rates. While these two tasks are extremely important to business continuity, motor carriers cannot overlook the importance of its talent retention practices, either. It is no secret that turnover can have a significant impact on your company's short- and long-term business goals. To manage this risk, consider the 'Hire to Retire (H2R)' concept. H2R is a term commonly used in the talent development community to describe the life cycle of an employee's career. Each step in the H2R process plays a critical role in attracting, developing, and retaining your workforce. Here is a brief overview of the H2R process; consider why each step is important to your risk management strategy.

IDENTIFY AND ATTRACT QUALITY CANDIDATES

The first step involves seeking and attracting talent to your company. Currently, it is an employee's job market, and job seekers can afford to be picky. To make your company stand out from the competition, create a company culture that invites positive word-of-mouth references and is reflected in your online presence.

SELECT AND HIRE THE RIGHT PERSON

Finding the right person with the right skills for the right job is easier said than done. Happening upon that perfect candidate is a recruiter's dream. Unfortunately, not every applicant will be so magical. Due diligence is essential for screening, selecting, and hiring the right candidate.

USE ONBOARDING TO ENGAGE NEW HIRES

Ensure there is a smooth transition for new hires from candidate to employee. Often, job-hoppers will make the decision to leave within the first 45 days, so be intentional about engaging new employees. Make them feel welcome, address any concerns or issues they may be having, and help them adjust.

DEVELOP TALENT

Invest in your employees by developing their skills. Establish career paths so employees can see a natural progression for their journey with your company. Also, consider offering opportunities for internal mobility. A worker may start out in one department but possess valued skills that can translate to other roles.

PROMOTE FROM WITHIN

Grooming talent by offering opportunities for upward mobility is great for succession planning and retention. However, be mindful that not all high performers make good supervisors or managers. Some leaders are born, while others may need training, mentoring, and coaching to make the transition successfully.

TRANSITION AND RETIRE

As valued employees near retirement, honor their contributions by capturing their knowledge for current and future workers. Document their expertise and show your appreciation for their years of service. This gesture can go a long way toward building employee morale.

CALL TO ACTION

- Identify areas of improvement for each step in your company's H2R process.
- Define career paths for each job function.
- Implement a talent-development program.

Submitted by:

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Safety Services Representative

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TOWING & STORAGE CLAIMS: A LEGAL PERSPECTIVE

What happens following a motor vehicle accident in Ontario involving a tractor, trailer and cargo that are blocking the flow of traffic? How do you release the Articles from towing and storage operators without having to pay outrageous and unreasonable fees?

This article will provide you with the knowledge and skills to combat towing and storage operators that are trying to take advantage of the situation and charge ridiculous fees for their services.

WHAT HAPPENS FOLLOWING AN ACCIDENT?

Following an accident, a tow operator will remove the tractor, trailer and cargo (“Articles”) and debris from the highway that are impeding traffic. The tower will then transport the Articles to a storage facility. The tower and/or storer will demand outrageous and inflated fees for towing and storage services and may refuse to release the Articles until the inflated invoices are paid.

One is then faced with the question: How can I release the Articles without paying these outrageous and unreasonable fees for towing and storage services?

HOW TO DETERMINE REASONABLE COSTS & EXPENSES

Although towers and storers may claim a lien over the Articles until their outstanding invoices are paid, the amounts being demanded by towers and storers must be reasonable, fair value, and conform with applicable laws, rate schedules and industry standards.

The key to determining reasonable costs and expenses is obtaining all relevant information and records regarding the services provided. The starting point to determine reasonable costs is requesting and reviewing rate schedules and assessing the reasonable amount of labour and equipment that should have been utilized in the circumstances. You should confirm that the tower and storer obtained the requisite consent and authorization for the services and request all estimates and itemized invoices for services performed. It is very important to request that the Articles be release and that any unauthorized repairs, towing, and/or storage cease immediately. Remember to make all your inquiries and requests in writing to create a paper trail in case you have to resort to litigation.





HOW TO RELEASE THE TRUCK, TRAILER AND CARGO

How does one release the Articles without having to paying the tower or storer the unreasonable and inflated amounts for the alleged services?

There is a dispute resolution process under s. 24 of the Repair and Storage Liens Act (“**RSLA**”) to release the Articles from towers/storers demanding unreasonable fees for services. When the tower or storer claim a lien against the Articles and refuse to release the until their invoices are paid, you have an option to commence an application under section 24 of the RSLA.

The process involves paying the amount demanded by the tower/storer into court and obtaining an Initial Certificate. The court will hold the money in trust pending the resolution of the dispute. The Initial Certificate then has to be served on the tower/storer. The tower/storer will then have 3 days to release the Articles unless they choose to file a Notice of Objection. If a Notice of Objection is filed, additional money will have to be paid into the court as requested by the tower/storer. The court will then issue a Final Certificate. When the Final Certificate is served on the tower/storer, they must release the Articles **immediately!**

If the tower/storer refuse to release the Articles following the service of the Initial Certificate or Final Certificate, you may then obtain a Writ of Seizure and have a sheriff or bailiff from the court attend the property and seize the Articles.

Once the Articles have been released or seized, the tower or storer will have two options: (1) accept the settlement amount proposed in the Initial Certificate; or (2) commence an action for the money paid into court within 90 days from the release or seizure of the Articles.

If the tower or storer chooses to settle, they will have to execute a Waiver of Further Claim and a portion of the money paid into court will go towards the settlement and the remaining

portion will be returned to you. If the tower or storer chooses to commence a claim, they must commence the claim within 90 days from the release or seizure of the Articles or else you can request the money paid into court to be returned by filing an Affidavit with the court. This does not, however, bar the tower or storer from commencing a claim with the two year limitation period prescribed by the *Limitations Act*.

WHAT TO EXPECT IN 2023

The Towing & Storage Safety & Enforcement Act (the “Act”) is set to come into full force on July 1, 2023 which will establish industry and consumer protection standards, including procedures and requirements for consent forms, estimates, notification, invoices, rate schedules, record keeping and more. The Act is expected to reduce fraud and overbilling in the sector, improve competition, improve road safety, increase customer confidence, reduce the potential for Articles being held hostage, as well as reduce intimidation, violence, and crime. There will also be penalties and convictions for towers and storers for non-compliance with the Act.

Should you have any questions regarding your rights as an owner, operator or insurance company when faced with towing and storage claims, please contact **Michael Furyk** of Alexander Holburn Beaudin + Lang LLP at mfuryk@ahbl.ca or (416) 639-9050 for a free legal consultation.

Contact



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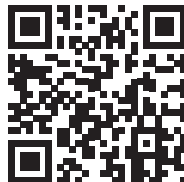
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