

From motorists.org

DOT Numbering Requirements

By Mary Cedeno

The Regulations are NOT new. They seem new because we simply went on our merry way before and never thought about them. But when our friends started getting pulled over and cited and told to get US Dept. of Transportation (USDOT) numbers, they kind of got our attention.

However, simply obtaining a DOT number is not where the difficulty lies. It is what comes AFTER that. Any commercial vehicle operating in interstate commerce, who obtains a USDOT number, is required to abide by the FMCSA Safety Regulations. This includes keeping a daily log book, certain safety training, vehicle inspections, annual log reviews, etc and so on...obviously meant for COMMERCIAL transporters. There are strict requirements for these log books, it's not simply writing down your mileage from one place to the next. If you are interested in learning more about these regulations, you can stop at any truck stop and purchase the 661 page "Federal Motor Carrier Safety Regulations Pocketbook" for about \$5. Oh, but don't forget to grab the \$2 (or so) "Official Deluxe Duplicate Copy DRIVER'S DAILY LOG" – because you'll need that too if you get your USDOT number and intend to travel across state lines (even with your hobby race or show car).

Hobbyists, trailering their car, horse or boat to an event, are being stopped on the roads by enforcement officers all across the country and told they need a DOT number. The hobbyists are simply taking their hobby vehicle to a show or race event. They are on the road perhaps five or six times a year with their vehicles, in summer weather usually, and often towing some of their most valued possessions. To hold hobbyists to the same commercial standards as commercial transporters simply does not make sense. And the lawmakers obviously agreed - which is why they specifically wrote certain applicability requirements into the exceptions of the regulation.

Specifically, 390.3(f) Exceptions. Unless otherwise specifically provided, the rules in this subchapter do not apply to -

(f)(3) The occasional transportation of personal property by individuals not for compensation nor in the furtherance of a commercial enterprise;

Even with the Guidance below, supplied by the Federal Motor Carrier Safety Administration, hobbyists are being stopped and cited by enforcement officers.

Question 21: Does the exemption in §390.3(f)(3) for the "occasional transportation of personal property by individuals not for compensation nor in the furtherance of a commercial enterprise" apply to persons who occasionally use CMVs to transport cars, boats, horses, etc., to races, tournaments, shows or similar events, even if prize money is offered at these events?

Guidance: The exemption would apply to this kind of transportation, provided: (1) The underlying activities are not undertaken for profit, i.e., (a) prize money is declared as ordinary income for tax purposes, and (b) the cost of the underlying activities is not deducted as a business expense for tax purposes; and, where relevant; (2) corporate sponsorship is not involved. Drivers must confer with their State of licensure to determine the licensing provisions to which they are subject.

SO, WHY ARE HOBBYISTS BEING TARGETED?

I asked a question of two different Federal Officers ...What if a person is a member of a car club and the club obtains money from sponsors, the car is required to run the decals of the sponsors. The prize money for anyone who wins is made up partly of the money the club obtained from

sponsors and partly from membership dues. Now, is that considered corporate sponsorship? BOTH of the agents I spoke with told me no, that would be prize money and the exception would still apply if they claimed it as regular income and did not write off expenses as part of a business. The difference is Corporate Sponsorship is what is paid to an individual whether they win a race or not, endorsement money is based on a driver winning and is therefore PRIZE money.

Part of the problem appears to be how the officer stopping you interprets what he/she is seeing. And, how do you, as the one being ticketed and potentially impounded, prove to the officer that you are simply a HOBBY racer and not in business or under a corporate sponsorship?

Even the people answering the phones at the FMCSA Help Line do not know about this exception and insisted anything over 10,000 lbs combined must have a DOT number. I spoke with supervisor after supervisor, until they finally referred me to the FMCSA Enforcement Office in Washington.

STUCK IN THE MIDDLE

According to the IRS, a business venture needs to have profit as its primary motive and the individuals involved need to spend a substantial amount of time participating in the venture. In order to write off business expenses the business needs to be profitable within three years and have a profit two out of five years with very few exceptions to this rule.

Just because you may have a lot of money invested into it, unless it is specifically performed for PROFIT and your "business" turns a profit in at least two of five years (generally speaking), then you have yourself a hobby, not a business.

So here we are, the hobby racer, seemingly stuck in the middle of two opposing federal rules. But not so, the IRS clearly defines the rules of business, and with the GUIDANCE in question 21 above, the FMCSA has clearly defined "commercial". But unless the enforcement officer agrees, you will still be ticketed.

CONSEQUENCES OF USDOT NUMBERING

Some of you are wondering, "Wouldn't it be easier to just get the DOT number and be done with it?"

Well, if you are operating a commercial motor vehicle over 10,000lbs for business purposes, you have no choice, you must get the DOT number. However, if you are a hobbyist abiding by all the restrictions of the exception noted above, and you still want to get the DOT number and cross state lines, you WILL be subject to the DOT safety regulations just as they apply to the commercial truckers.

If you are driving a 26,000 lb or more CMV, you are most likely required to obtain a CDL (commercial drivers' license). This will kick in even more restrictions, including annual drug and alcohol screening. However, if you are operating an RV - these CDL rules may not apply.

APPLICABLE OR NOT, HERE THEY COME

Well, here it is. The Federal government has given us an exception to the applicability of the DOT numbering requirements; they gave their guidance describing who exactly gets the exception. Both are available for review online by anyone who would like to look at them. And then we have the enforcement agent.

It seems that some of the DOT enforcement officers are unaware of the exception and may have never seen the interpretation in the FMCSA guidance documents. They may be having difficulty determining who IS a business and who is not. So, they appear to be requiring EVERYONE to

get a DOT number....even though the regulation stipulates hobbyists as described above, don't need one.

It's the equivalent to hauling in all the redheads on the block because someone saw a redhead committing a crime. If the police did this, they would be in the wrong and there would be many, many people pointing it out. So where is all the fuss? Why isn't anyone saying anything? I think folks are intimidated and afraid to speak out. After all, the enforcement officer wields a lot of power over the average driver and they CAN make your life difficult - if only for a short time.

In the end, hobbyists are subject NOT to the actual regulations, but to the INTERPRETATION by the officer who stops us on any given day, in any given state. Just because we may be right does not mean we won't get stopped by an officer somewhere who sees the rules/regulations differently.

WHAT CAN YOU DO?

If you ARE just a hobbyist and do not write off your expenses, and you want to take the exception, I suggest you not only carry a copy of the regulation and exception, but read it and understand it so that you can CALMLY explain it to the officer who may stop you. Because it sounds to me like the officers on the road are going to test your knowledge.

If you ARE cited, be sure take the opportunity to go to court to explain the situation and defend yourself. Because if you ARE just a hobbyist, the exemption in the regulations is written for YOU. If you do go to court, you might want to bring your tax records with you as proof.

Although all the States have adopted the federal regulation, be aware that individual States may have additional regulations written in to their traffic laws. It is your responsibility to contact the state where you plan to tow your vehicle and check on the regulations that apply. That is easier said than done of course. I personally was transferred over seven times on the phone when trying to find a DOT officer in one state who could tell me if they had any additional regulations that may apply. I ended up back at the first one who transferred me!

Don't be shy. Contact your local track owners, state representatives and anyone else who will listen. There is an exception - if it does not apply to hobbyists - then who does it apply to?

RV's AND THE USDOT NUMBERING REQUIREMENTS

OK, here's the rub guys. You can get yourself a nice big toter home and tow your 50' recreational stacker trailer anywhere you want and you won't need to worry about those silly little DOT numbers. You can tow it all day long – cover 80ft of road and no worry. No USDOT requirements for RV's used solely for recreational purposes, if you use them for business that's something else and the regulations would apply.

CDL LICENSING

If your gross vehicle weight (GVW) or gross vehicle combined weight (GVCW) are over 26,000 lbs you are most likely required to obtain a Commercial Drivers License (CDL). You might be able to get away with an RV Endorsement if you have an RV, but it varies from State to State and it might be easier just to get the CDL. However, the CDL licensing may kick additional regulations into play. Please contact your DMV office and ask the questions before you decide to get the CDL.

ADDITIONAL INFORMATION

FMCSA = Federal Motor Carrier Safety Administration

The specific regulation is 49 CFR 390.3 The FMCSA web site where the regulation and Guidance document are located here.

I have been told by a FMCSA rep that ALL states have adopted this federal regulation