

Trucking Accidents: Common Causes & Liability

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Learn about the common causes of trucking accidents and who might be liable.

If you are the victim of a trucking accident, the questions of who is responsible and what actually caused the accident are often much more complicated than in a simple traffic accident. There are many players involved, from the driver to the owner of the truck, and getting information about what went wrong often requires some industry know-how.

Understanding the common reasons for trucking accidents, and the relationships among the persons and entities connected to the truck, the trailer, and the load, will help you determine whether you have a valid claim and how you will present your case.

Truck Accident Statistics

Over the past two decades, the number of truck accidents has increased by 20%. According to the Federal Motor Carrier Safety Administration (FMCSA), in 2002, 4,897 individuals died and 130,000 people were injured in crashes that involved a large truck. And even though large trucks are only responsible for 3% of injury-causing motor vehicle accidents, trucking accidents typically cause much greater harm than ordinary traffic accidents due to the large size and heavy weight of most trucks.

Laws Governing Truck Accidents

Federal laws and regulations govern the trucking industry. These laws establish certain standards that trucking companies, owners, and drivers must meet, and often determine who is responsible for a trucking accident. The bulk of federal regulations dealing with the trucking industry can be found in Title 49 of the Code of Federal Regulations.

Agencies that regulate truck driving include the U.S. Department of Transportation (DOT) and the Federal Motor Carrier Safety Administration (FMCSA). Every state also has a department of transportation with its own set of trucking regulations.

Who Is Responsible?

When it comes to truck accidents, there is a web of players who may be responsible for a victim's injuries, including:

- the truck's driver
- the owner of the truck or trailer
- the person or company that leased the truck or trailer from the owner
- the manufacturer of the vehicle, tires, or other parts that may have contributed to the cause or severity of the accident, and

- the shipper or loader of the truck's cargo (in cases involving improper loading).

The trucking, hauling, and leasing companies often argue among themselves over whose insurance will compensate the victim. For example, the truck company might claim that the accident was caused by defective brakes. In turn, the brake company might then point the finger at the leasing company, claiming that it failed to maintain the brakes in good working order.

Can Trucking Companies Avoid Liability?

In the past, trucking companies often tried to avoid liability for trucking accidents by creating distance between themselves and the driver, the vehicle, and the equipment. Here's how they did this:

The trucking company obtains the necessary permits to operate the truck. However, the company often does not own the tractor, trailer, or equipment used to haul the goods. Instead it leases (rents) the equipment, tractors, and trailers from the "owner/operator." The trucking company also does not directly employ the drivers. Instead, it hires them as independent contractors from the owner/operator.

The trucking company gives the owner/operator a "placard," which includes the name of the trucking company and its permit numbers. The placard is then affixed to the door of the tractor -- which makes it seem like the truck is owned by the named trucking company and the driver is an employee of the named trucking company.

If the truck is in an accident, and the trucking company is sued, it would argue that:

- the driver was not the trucking company's employee, so the trucking company is not liable for driver error, or
- the trucking company does not own the equipment, so it is not responsible for the operation, maintenance, repair, and inspections of the equipment.

Luckily, federal laws and regulations have put an end to these arguments. Under current federal law, any company owning a trucking permit is responsible for all accidents involving a truck that has its placard or name displayed on the vehicle. It doesn't matter what the lease says with the owner/operator or whether the driver is an employee or independent contractor.

Determining What Caused the Accident

Traditionally, accident victims had to rely on police reports and witness statements to understand how and why an accident occurred. Today, there are other key ways to get information about an accident: information from government agencies and data from high tech devices.

Contact Government Agencies

Federal and state regulations require that a certified truck inspector (usually a member of the reconstruction division of the state police) inspect any commercial truck and trailer involved in an accident before it is removed from the scene. This report reveals the condition of all of the important mechanical parts of the truck and trailer. These reports are not part of local police report. Instead, they must be obtained from the appropriate government agency.

Preserve Data From High Tech Devices

When a plane crashes, the first thing officials recover is the “black box” -- a device that records data that assists with the investigation. The trucking industry is now using devices similar to black boxes that record all sorts of information, including how fast the truck was going, patterns of speed, when the driver used his or her breaks -- and even how long the driver had been on the road.

Many of these devices are also used in the automotive industry, such as on-board computers and global positioning systems (GPS). Others are specific to the trucking industry such as inclinometers, which are devices that provide information about the angles of a slope and how to round corners safely.

If you are in a trucking accident, it is critical that you make sure data from high tech equipment is preserved. Otherwise, it might be erased as part of the regular routine of the company.

Common Causes of Truck Accidents

The most common causes of truck accidents are driver error prior to and during the trip, mechanical failures, weather conditions, road design, and traffic signal failures.

Driver Error

The most common cause of trucking accidents is driver error. In fact, drivers of large trucks are ten times more likely to be the cause of the crash than other factors, such as weather, road conditions, and vehicle performance, according to a recent study released by the Federal Motor Carrier Safety Administration (FMCSA). The FMCSA found that the action or inaction by drivers was the critical reason for 88 percent of crashes.

Factors such as the use of prescription and over-the-counter drugs, speeding, fatigue, inattention, distractions, work environment, and unfamiliarity with the road all can contribute to driver error. But by far the most common causes of trucking accidents are driver fatigue and sleep deprivation.

Equipment Problems

The next most common cause of truck accidents is equipment failure. This can include manufacturing mistakes (defective tires) or design errors (failure to provide backing

warning or object detection systems). However, most mechanical causes of truck accidents are caused by a failure to properly maintain the equipment. Some examples include:

- removing or depowering the front brakes, which can cause a truck to jackknife
- brake failure due to inadequate adjustments
- tire blowouts due to wear
- improper securing or load distribution, contributing to truck rollover
- defective steering
- improper trailer attachment
- defective side or rear lighting, and
- transmission failure.

Getting Help

Because the web of players in the trucking industry can be complicated and getting information from the right sources may require some industry know-how, you may want to get advice or representation from a personal injury lawyer.

For help on choosing a good truck accident lawyer, read Nolo's article

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